

**N.C. STRUCTURAL PEST CONTROL COMMITTEE**

**1090 Mail Service Center**

**Raleigh, NC 27699-1090**

**(919) 733-6100**

**REVISED**  
**MEETING AGENDA**

**October 30, 2014**

**10:00 a.m.**

**NCSU Structural Pest Management Training & Research Facility**

**4000 CHI ROAD**

**RALEIGH, NC 27603**

**MANDATORY ETHICS INQUIRY** - North Carolina General Statute 138A-15(e) mandates that the Committee Chair shall remind all Committee Members, of their duty to avoid conflicts of interest and appearances of conflict under this Chapter, and that the chair also inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any agenda item coming before the Committee at this time. It is the duty of each Member who is aware of such personal conflict of interest or of an appearance of a conflict, to notify the Chair of the same, and to refrain from inappropriate participation on that agenda item.

**1. Ethics Reminder**

- Dr. Mike Waldvogel, Chairman, N.C. Structural Pest Control Committee

**2. Welcome Simon D. Shaw to the SPC Committee**

**3. Consider Minutes of the June 20, 2014 Meeting**

**4. Evaluation of Statement of Economic Interest for:**

- Simon D. Shaw

- Phillip G. Clegg

**5. Request by FMC for 'Totality Wood Treatment' to be added to N.C. Approved List Termiticides**

- Evan Parenti, FMC Corporation.

**6. Request to Address the Committee for Rule Making to Prevent Misleading Advertising by Pest Control Companies.**

-Michael C. Sauls, Cary Pest Control, Inc.

**7. NC General Assembly Session 2013 Senate Bill 744**

- John Dalley

**8. Update on Bed Bug Control Assistance Discussion**

- John Dalley

**9. Consider Settlement Agreements N.C. Department of Agriculture and Consumer Services, Structural Pest Control and Pesticide Division, vs.**

SPE13-7 James W. Bell, II

SPW14-2 Michael Howard

SPW14-4 Gary H. Ward

SPW14-14 Jorge Rivero



**16. Miscellaneous Information:**

License Applicants Approved by Division  
Recertification Courses Approved by Division  
Correspondence

**CONTINUANCE OF THIS MEETING via Telephone Conference – November 17, 2014**

**1a. Ethics Reminder**

- Dr. Mike Waldvogel, Chairman, N.C. Structural Pest Control Committee

**5a. Request by FMC for 'Totality Wood Treatment' to be added to N.C. Approved List Termiticides (tabled on October 30, 2014)**

**9a. Update on SPE13-7 James W. Bell, II that was tabled on October 30, 2014.  
Rick Reid (SPC Western Field Supervisor)**

**11. Consider Settlement Agreements N.C. Department of Agriculture and Consumer Services,  
Structural Pest Control and Pesticide Division, vs.**

SPW14-7 Jason K. Burkhart  
SPW14-7 Ansley Sherlock





STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE13-7

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

JAMES W. BELL, II,

Respondent.

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and James W. Bell, II, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1676W which is currently registered to his business address at MZ Bugs Termite Control, LLC, 638 Spartanburg Highway, Suite 70, No. 4, Hendersonville, North Carolina.
2. A resident of the Village at Mayfaire in Wilmington, New Hanover County, North Carolina, told a pest control company that he was concerned about the pest control company that was performing a termite treatment to his property.
3. On February 28, 2013, Complainant's Field Inspector went to the Village at Mayfaire and observed a service vehicle identified as B & B Industrial Termite Control.
4. Complainant's Field Inspector introduced himself to the driver, David Allen Bell. David Bell gave Complainant's Field Inspector a business card for MZ Bugs Termite Control, Kingsport, Tennessee. David Bell did not have a CA or RT card.
5. David Bell stated that MZ Bugs Termite Control provided the preconstruction treatment at the Village at Mayfaire. He said he was treating Building 648 Unit 102 after termites had swarmed.
6. David Bell further stated that his family owned B & B Industrial Termite Control and MZ Bugs Termite Control. He said he was certified under Larry Bell's Structural Pest Control License No. 1768W which was registered to B & B Industrial Termite Control. Review of the

Section's licensing records showed that Larry Bell's license had lapsed on July 1, 2012. David Bell's certification, CA1768W, was, therefore, also inactive. David Bell did not have a CA or RT card under MZ Bugs Termite Control.

7. Complainant's Field Inspector observed David Bell dig a shallow trench along the back of Building 648 Unit 102. When asked about rodding into the trench, David Bell replied he did not have a rod.

8. David Bell told Complainant's Field Inspector that he was applying fifty gallons of Premise Pro to the soil. Complainant's Field Inspector observed David Bell apply the Premise Pro solution to the upper two feet of the foundation wall allowing the chemical to run down into the trench. David Bell was standing six feet from the foundation while power washing the foundation wall with the Premise Pro solution. The Premise Pro solution splashed onto plants, down spouts, drain tiles and a gas line.

9. Complainant's Field Inspector told David Bell that the pressure was too high. David Bell tried to lower the pressure but the pressure gauge was broken. David Bell applied fifty gallons of the Premise Pro solution in four minutes and twenty-five seconds. He did not mix the Premise Pro solution into the soil before or after the treatment and covered the trench with untreated soil. He failed to check for leaks inside the structure.

10. The registered label for Premise Pro contains the following language:

Apply only to soil or other fill substrate that will accept the solution at the specified rate.

Use a low pressure spray (not to exceed 25 PSI at the treatment tool when the valve is open) to treat soil which will be placed in the trench after rodding. Mix the spray solution with soil as it is being placed in the trench.

After application, the applicator is required to check for leaks.

11. Complainant's Field Inspector inspected David Bell's vehicle and determined the following:

- Insufficient spill control clean up material on the vehicle.
- Unlabeled tank on the vehicle.
- Improperly identified vehicle.
- Nonfunctional pressure gauge on vehicle.

12. Complainant's Field Inspector requested copies of contracts, graphs, treatment records and final treatment records for the Village at Mayfaire from MZ Bugs Termite Control. These records are maintained at the Resident Agent's address in Hendersonville, North Carolina.

13. On March 1, 2013, Complainant's Field Inspector again requested records from MZ Bugs Termite Control.

14. On May 1, 2013, Complainant's Eastern Field Manager contacted the Respondent and arranged to meet with him on May 8, 2013 at 9:30 a.m. at the Resident Agent's address, a UPS box store at 172 Highlands Square Drive in Hendersonville, North Carolina.

15. On May 7, 2013, the Respondent contacted the Complainant's Western Field Manager to change the meeting time to 10:30 a.m.

16. On May 8, 2013, David Bell contacted Complainant's Western Field Manager to let him and Complainant's Eastern Field Manager know that the Respondent was having car trouble.

17. When Complainant's Eastern Field Manager contacted the Respondent, the Respondent stated that his car broke down in Asheville, North Carolina, and he could not make it to Hendersonville, North Carolina. He would call Complainant's Eastern Field Manager to arrange a time to meet.

18. On May 21, 2013, Complainant's Eastern Field Manager contacted the Respondent to request a meeting with him the following week. The Respondent stated that he would be on vacation for six weeks and would contact Complainant's Eastern Field Manager when he returned. He said the warranty at the Village at Mayfaire expired after five years and he sent his nephew to treat the building "out of the goodness of his heart."

19. On March 14, 2014, Complainant's Field Inspector left a voice mail message for the Respondent to arrange a meeting.

20. On March 19, 2014, Larry Bell contacted Complainant's Field Inspector. Larry Bell stated that his father was in Florida until April. Complainant's Field Inspector requested a meeting with Larry Bell on March 26, 2014. Complainant's Field Inspector also requested that Larry Bell bring all documentation for the Village at Mayfaire.

21. On March 24, 2014, Larry Bell contacted Complainant's Field Inspector and stated that he was unable to meet with him and Western Field Manager Reid on March 26, 2014.

22. Later that same day, Complainant's Deputy Director contacted Larry Bell. Larry Bell stated that the contract and treatment records for the Village at Mayfaire were at the Resident Agent's office located at 638 Spartanburg Highway, Suite 70, No. 4, in Hendersonville, North Carolina.

23. Complainant's Field Inspector went to the Resident Agent's address and obtained all the records on March 24, 2014.

24. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.
- (2) Failure of the licensee or certified applicator to give the Committee, the Commissioner, or their authorized representatives, upon request, true information regarding methods and materials used, or work performed.
- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.
- (5) Willful violation of any rule or regulation adopted pursuant to this Article.
- (9) Using any pesticide in a manner inconsistent with its labeling.
- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

N.C. Gen. Stat. § 106-65.30. Inspectors; inspections and reports of violations; designation of resident agent.

(b) Prior to the issuance or renewal of a license or certified applicator's identification card, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the Commissioner or his authorized agent a resident agent upon whom service of notice or process may be made to enforce the provisions of this Article and rules and regulations adopted pursuant to the provisions hereof or any civil or criminal liabilities arising hereunder.

#### 02 N.C. Admin. Code 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 N.C. Admin. Code 34 .0405 FOLLOWING PESTICIDE LABEL

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

#### 02 N.C. Admin. Code 34 .0406 SPILL CONTROL

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

02 N.C. Admin. Code 34 .0601 AGREEMENTS

(a) Before any treatment is started, the licensee or his authorized agent shall execute, and furnish to the property owner or his authorized agent, a written proposal informing the property owner or his authorized agent, as to the type and quality of work that is to be performed. The written proposal shall contain that information specified in 02 NCAC 34 .0605 and, upon written acceptance by the property owner or authorized agent, shall suffice as the written agreement, required by Paragraph (b) of this Rule.

02 N.C. Admin. Code 34 .0904 PROHIBITED ACTS

(i) No certified applicator or licensee or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate; provided, however, when there is a sale of a business or other name change the company may use both names together for a period not to exceed three years from the date of the name change or sale of business.

25. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

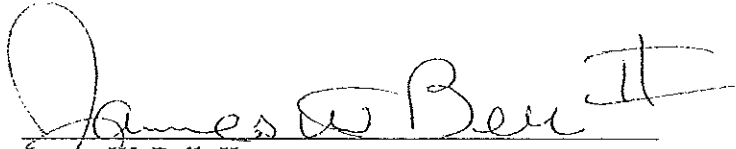
26. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of two thousand dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of two thousand dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of two thousand dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 26(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 26(b) of this Agreement;

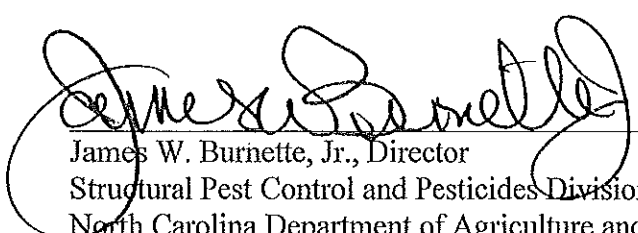
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

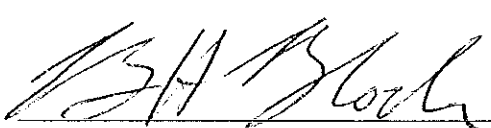
BY CONSENT:

  
James W. Bell, II  
MZ Bugs Termite Control, LLC  
638 Spartanburg Highway  
Suite 70, No. 4  
Hendersonville, NC 28792

7-30-14  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

8-5-2014  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

8/12/14  
Date

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APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman





STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-2

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

MICHAEL L. HOWARD, )

Respondent. )

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael L. Howard, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1025PW which was registered to his business address at B & G Exterminating Company, 2001 Clodfelter Road, Winston-Salem, North Carolina.
2. On December 5, 2013, Complainant's Western Field Manager and Field Inspector conducted a request inspection for David and Jessica Workman. Mr. and Mrs. Workman purchased their home at 151 Myers Drive in Thomasville, Davidson County, North Carolina, in October 2013.
3. Mr. and Mrs. Workman reported that they found termite damage while refinishing the hardwood floors.
4. On September 4, 2013, the Respondent issued a Wood-Destroying Insect Information Report (WDIR) for the residence located at 151 Myers Drive in Thomasville, North Carolina.
5. The WDIR indicated the following:
  - Inspection revealed visible evidence of a previously treated subterranean termite infestation, which now appears to be inactive.
  - Location of visible evidence of infestation: Floor joist, back foundation wall, old tubes broken and scraped.

6. B & G Exterminating Company previously treated the residence. However, the Respondent could not provide the original contract.

7. During the inspection and review of records, Complainant's Western Field Manager and Field Inspector determined the following:

- The Respondent failed to indicate termite damage and active termites in the walls of the attached garage slab area in the crawl space near the chimney.
- The Respondent failed to indicate termite evidence in the crawlspace (floor joists, subfloor and access door), front foundation wall, sill plate and interior door frame.
- The Respondent performed an application for the control of wood-decay fungi without noting moisture levels at or above 20%.
- The Respondent failed to trench the soil in the crawl space.
- The Respondent partially drilled and treated the slabs adjacent to the foundation walls.
- The Respondent failed to include an explanation and the location of items waived on the Waiver Form.

8. Complainant's Western Field Manager and Field Inspector determined that the Respondent issued an inaccurate and incomplete WDIR and Waiver Form for the residence located at 151 Myers Drive in Thomasville, North Carolina.

9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

#### 02 NCAC 34 .0508 WOOD-DECAY FUNGI

(a) The following conditions shall be considered satisfactory evidence of and necessary conditions for an active wood-decay fungus infestation:

- (1) Moisture content of the wood sufficient to support the growth of wood-decay fungus, as determined through the use of a moisture meter; and
- (2) The presence of mycelial growth or characteristic damage from wood-decay fungi.

(b) A moisture content in the wooden members of a structure in excess of 20 percent of a dry weight basis shall be recognized as an indication that some steps should be taken to control the moisture level of the affected member(s).

(c) Pesticide applications for the control or prevention of wood-decay fungi may only be performed after informing the property owner or their authorized agent in writing of

the biology and conditions supporting the growth of wood-decay fungi. Such notice shall include an evaluation of the condition of the structure, including the moisture content of the wooden members to be treated as determined with a moisture meter, and a statement as to whether or not such condition(s) will support the growth of wood-decay fungus.

#### 02 NCAC 34 .0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand two hundred dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum one thousand two hundred dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand two hundred dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;

- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

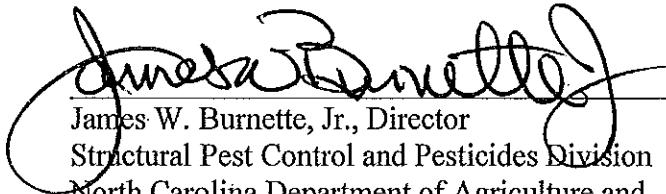
BY CONSENT:



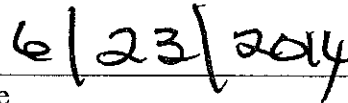
Michael L. Howard  
B & G Exterminating Company  
2001 Clodfelter Road  
Winston-Salem, NC 27107



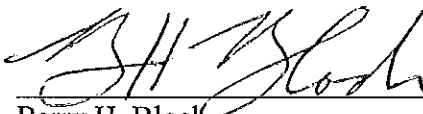
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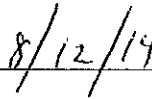
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090



Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629



Date

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APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

GARY H. WARD,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-4

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Gary H. Ward, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1471PW which was registered to his business address at Bugg Busters, Inc., 483 Salem Church Road in Lincolnton, North Carolina.
2. On February 4, 2014, Complainant's Field Inspector performed a routine inspection of Bugg Busters, Inc., 483 Salem Church Road in Lincolnton, Lincoln County, North Carolina.
3. During the inspection, Complainant's Field Inspector discovered evidence that the Respondent allowed his liability insurance to lapse and continued to do business.
4. Complainant's Field Inspector determined the Respondent allowed his liability insurance to expire on August 26, 2013. The Respondent renewed his liability insurance effective September 30, 2013.
5. During the lapse in insurance coverage, Bugg Busters performed 501 household pest control services and 39 wood destroying organism services, billing a total amount of \$40,896.00.
6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

- (b) It shall be unlawful for any person to:
  - (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.
- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

#### 02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

- (a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.
- (e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.
- (f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:
  - (3) expiration of the policy.

- 7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

#### N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

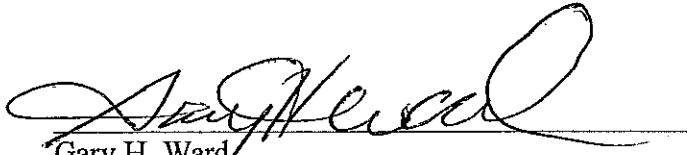


8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of eight hundred dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of eight hundred dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of eight hundred dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

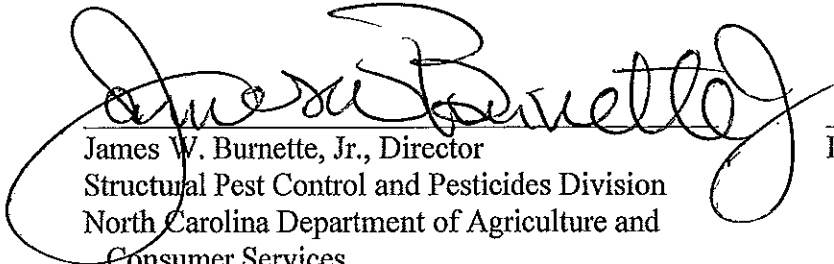
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Gary H. Ward  
Bugg Busters, Inc.  
483 Salem Church Road  
Lincolnton, NC 28092

Date 7/5/14



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

Date 7/8/2014



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

Date 8/12/14

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

JORGE RIVERO & EL CLUB  
MEXICANO, INC.,

Respondents.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW14-14

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jorge Rivero & El Club Mexicano, Inc., hereinafter referred to as Respondents.

1. At all times pertinent to this matter, Respondent Jorge Rivero was the president of El Club Mexicano, 420 Waketa Drive, Asheboro, Randolph County, North Carolina, and El Club Mexicano, Inc., is a corporation incorporated and existing under the laws of the State of North Carolina.
2. On August 11, 2014, several employees of El Club Mexicano, Inc., a corporation operating a food processing plant at 420 Waketa Drive, Asheboro, North Carolina, reported symptoms of headache, nausea, and vomiting. All employees evacuated the building. Randolph County Emergency Services transported several employees to Randolph Hospital. Others went to the hospital without assistance from first responders. Eighteen employees were treated in the hospital and four were kept in the hospital overnight.
3. The Asheboro Fire Department was called and responded to the possible chemical hazard at El Club Mexicano, Inc.'s, food processing plant. Firefighters ventilated the facility to acceptable oxygen, carbon monoxide and hydrogen sulfide level readings.
4. Randolph County Emergency Services notified state and federal agencies.
5. NCDA&CS Food and Drug Division placed an embargo on the shipment of food from the processing plant.



6. On August 12, 2014, Complainant's Field Inspector met with Jennifer Bridges, Inspector, NCDA&CS Food and Drug Division at El Club Mexicano's food processing plant. The plant reopened and employees returned to the building.

7. Complainant's Field Inspector also met with Inspector Fruitt of the Asheboro Fire Department at the facility. Complainant's Field Inspector then went to the Emergency Services Department with Inspector Fruit and met with Deputy Chief Hooker. Deputy Chief Hooker provided a copy of the incident report, MultiPro sensor readings and a list of the employees on site. Deputy Chief Hooker stated that he recognized the odor in the plant as one similar to "Phox Tox," a product used in silos of corn. He said that employees at El Club Mexicano's plant facility directed him to the dumpster where he found and removed Fumiteco 56 and TAT canisters. Fumiteco 56 containers were taken to the Randolph Hospital emergency room to aid in the treatment of the employees.

8. Deputy Chief Hooker also provided an Application Note from EnvirionicsUSA concerning cross-sensitivity of the H<sub>2</sub>S sensor to Phosphine, PH<sub>3</sub>. Using this conversion he stated that when they arrived the PH<sub>3</sub> levels were at 18 parts per million.

9. Complainant's Field Inspector returned to El Club Mexicano's facility. Ms. Bridges provided a copy of a receipt dated August 7, 2014, from Family Dollar for seven three-packs of TAT Concentrated Foggers and one four-pack of Raid Concentrated Deep Reach Fogger.

10. Complainant's Field Inspector contacted John Allran, Environmental Toxicologist with the NCDA&CS Structural Pest Control and Pesticides Division. Mr. Allran contacted Mary Moore Cooper, the Director of Public Health for the County of Randolph. Ms. Cooper issued an Order of Abatement of an Imminent Hazard to El Club Mexicano's facility on August 12, 2014.

11. On August 20, 2014, Complainant's Field Inspector met with Renaldo Rivero, the receiving manager for El Club Mexicano. Mr. Rivero stated that on August 7, 2014, after everyone had left for the day, he and four employees placed pellets from four Fumiteco 56 canisters in cardboard boxes in the warehouse. A salesman had provided the four Fumiteco 56 canisters to the previous manager to try out. The canisters had been stored in a trailer outside the building. While on his way to Family Dollar to purchase foggers, Mr. Rivero received a phone call telling him that the smell from the Fumiteco 56 was really bad and might damage the food in the warehouse. All the cardboard boxes containing the Fumiteco 56 were placed in the dumpster. They then activated the twenty five foggers purchased from Family Dollar and left the warehouse.

12. Laboratory analysis of samples taken by Highlands Environmental Solutions, Inc., in the El Club Mexicano facility on August 20, 2014, revealed residual trace amounts of cypermethrin.

13. The Structural Pest Control Section's records reveal that neither Renaldo Rivero, Jerry Aleman, the manager for El Club Mexicano, nor Respondent Jorge Rivero is registered as a Non Commercial Certified Applicator.

14. Fumiteco 56 is manufactured in Mexico and is not a pesticide registered with the EPA. Similar EPA registered products are considered restricted use pesticides.



15. The registered labels for Raid Concentrated Deep Reach Fogger and TAT Concentrated Fogger contain the following language:

Do not use in commercial food/feed handling establishments, restaurants or other areas where food/feed is commercially prepared, processed or stored.

16. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(3) Use a restricted use pesticide in any phase of structural pest control, whether it be on the person's own property or on the property of another, unless the person:

a. Qualifies as a certified applicator for that phase of structural pest control.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations.

N.C. Gen. Stat. § 106-65.33. Violation of Article, falsification of records, or misuse of registered pesticide a misdemeanor.

(a) Any person who shall be adjudged to have violated any provision of this Article or who falsifies any records required to be kept by this Article or by the rules and regulations pursuant to this Article or who uses a registered pesticide in a manner inconsistent with its labeling shall be guilty of a Class 2 misdemeanor. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Committee, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

02 N.C. Admin. Code 34 .0405 FOLLOWING PESTICIDE LABEL

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

17. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or





directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

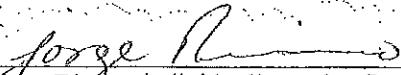
18. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondents shall pay the sum of ten thousand dollars (\$10,000.00) to the North Carolina Department of Agriculture and Consumer Services in two equal payments of five thousand dollars each. The first payment shall be due on February 1, 2015. The second payment shall be due on March 1, 2015.
- (b) That Respondents agree that if they fail to pay the agreed upon sum of ten thousand dollars (\$10,000.00) within thirty (30) days of the dates for each payment set forth in paragraph 18(a), this Agreement shall constitute a civil penalty assessment of the Committee of ten thousand dollars (\$10,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondents to criminal and/or additional administrative charges;
- (c) That Respondents acknowledge their right to a hearing before the Committee of the civil penalty assessment in paragraph 18(b) and waives that right by consenting to the terms of this Agreement. Respondents further agree that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 18(b) of this Agreement;
- (d) That Respondents acknowledge that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondents acknowledge that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondents commit any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondents for such violations may determine that each day during which Respondents' violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

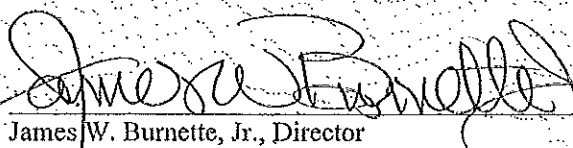


WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

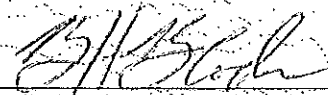
BY CONSENT:

  
Jorge Rivero, individually, and as President of El  
Club Mexicano  
El Club Mexicano  
420 Waketa Drive  
Asheboro, NC 27203

10-29-2014  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

10/30/2014  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

10/30/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 30 day of October, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

JASON K. BURKHART, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW14-7

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jason K. Burkhardt, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1814P which was registered to his business address at Trutech, LLC, 8508 Park Road, PMB 185, Charlotte, Mecklenburg County, North Carolina.

2. On February 6, 2014, Complainant's Field Inspector investigated a complaint regarding the improper storage of rodenticide and pesticide containers at the residence of Ansley Sherlock, 270 Twin Oaks Drive in Hampstead, North Carolina.

3. Complainant's Field Inspector went to Ms. Sherlock's residence and observed several pesticide containers stored outside bearing labels for the following pesticides:

- Contrac All-Weather Blox
- First Strike Soft Bait
- Borid Insecticide

4. The registered label for Contrac All-Weather Blox contains the following language:  
Store only in original container in a cool, dry space inaccessible to children and pets.

The registered label for First Strike Soft Bait contains the following language:

**Pesticide Storage:** Store in original container in a cool, dry place inaccessible to children and pets.

The registered label for Borid Insecticide contains the following label language:  
Keep product in a locked storage area.

5. A packing slip at the site indicated the products were shipped to Trutech, Ansley Sherlock, 270 Twin Oaks Drive, Hampstead, North Carolina.
6. Later that same day Complainant's Field Inspector met with Ms. Sherlock at her residence. Ms. Sherlock stated that she started working for Trutech on February 1, 2013. She said that she reports to James Coakley, her manager. She attended two days of training in Marietta, Georgia, and two days of training in Raleigh, North Carolina. All her service tickets are mailed to Trutech's corporate office in Marietta, Georgia.
7. At the time of the inspection Ms. Sherlock did not have a registered technician's identification card. Ms. Sherlock was issued a registered technician's identification card on February 18, 2014.
8. Complainant's Field Inspector determined that the corporate office for Trutech, LLC, is located in Marietta, Georgia. The Respondent held Structural Pest Control License No. 1814P which was registered to his business address at Trutech in Charlotte, North Carolina. James Coakley, North Carolina District Manager, held Structural Pest Control License No. 2014P which was also registered to the Trutech office in Charlotte. Fifteen Trutech employees work throughout North Carolina. Mr. Coakley resides in Cary, North Carolina, and supervises the fifteen employees.
9. During the investigation and interviews with several Trutech employees, Complainant's Field Inspectors determined the following:
  - a. Trutech failed to provide an employee with the required 24 hours of on the job training before he mixed and applied pesticides.
  - b. Trutech failed to obtain registered technician identification cards within 75 days for three employees.
  - c. Trutech failed to make available all required structural pest control records during regular business hours at the Charlotte office.
  - d. Trutech failed to submit the names of recently hired employees to the Structural Pest Control Section.
  - e. Trutech Registered Technician failed to have a copy of the label for each pesticide being used, failed to maintain adequate spill control materials on his service vehicle, and failed to mark rodent bait stations with the signal word from the label.
10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the Committee, in writing, information to show that he/she is, in fact, controlling, directing, and supervising the structural pest control activities of said office or employee.

(d) The information required in Paragraph (b) of this Rule shall be submitted within 10 days of employment of any individual to which Paragraph (b) of this Rule applies and at the time the license or identification card is issued, reissued, or renewed.

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.

(c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon request by the Division.

#### 02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

#### 02 NCAC 34 .0406 SPILL CONTROL

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.


12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of two thousand dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of two thousand dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of two thousand dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

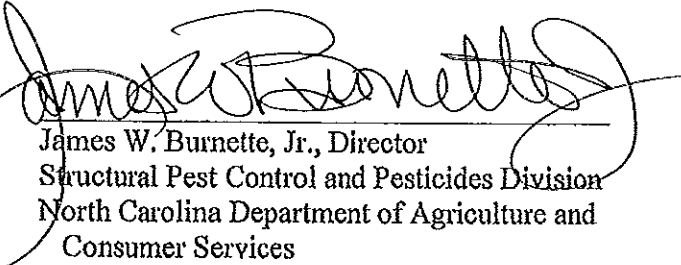


WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
\_\_\_\_\_  
Jason K. Burkhart  
Trutech, LLC  
1140 Kildaire Farm Road, Suite 202, Room 4  
Cary, NC 27511

10/31/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/3/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

11/10/2014  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ANSLEY SHERLOCK, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW14-7

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Ansley Sherlock, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a technician performing structural pest control under Jason K. Burkhart's North Carolina Structural Pest Control License No. 1814P which was registered to his business address at Trutech, LLC, 8508 Park Road, PMB 185, Charlotte, North Carolina.

2. On February 6, 2014, Complainant's Field Inspector investigated a complaint regarding the improper storage of rodenticide and pesticide containers at the Respondent's residence located at 270 Twin Oaks Drive in Hampstead, Pender County, North Carolina.

3. Complainant's Field Inspector went to the Respondent's residence and observed several pesticide containers stored outside bearing labels for the following pesticides:

- Contrac All-Weather Blox
- First Strike Soft Bait
- Borid Insecticide

4. The registered label for Contrac All-Weather Blox contains the following language:  
Store only in original container in a cool, dry space inaccessible to children and pets.

The registered label for First Strike Soft Bait contains the following language:

**Pesticide Storage:** Store in original container in a cool, dry place inaccessible to children and pets.

The registered label for Borid Insecticide contains the following label language:  
Keep product in a locked storage area.

5. A packing slip at the site indicated the products were shipped to Trutech, Ansley Sherlock, 270 Twin Oaks Drive, Hampstead, North Carolina.
  6. Later that same day Complainant's Field Inspector met with the Respondent at her residence. She stated that she started working for Trutech on February 1, 2013. She said that she reports to James Coakley, her manager. She attended two days of training in Marietta, Georgia and two days of training in Raleigh, North Carolina. All her service tickets are mailed to Trutech's corporate office in Marietta, Georgia.
  7. At the time of the inspection the Respondent did not have a registered technician's identification card. She was issued a registered technician's identification card on February 18, 2014.
  8. Complainant's Field Inspector determined that the corporate office for Trutech, LLC, is located in Marietta, Georgia. Jason K. Burkhart held Structural Pest Control License No. 1814P which was registered to his business address at Trutech in Charlotte, North Carolina. James Coakley, North Carolina District Manager, held Structural Pest Control License No. 2014P which was also registered to the Trutech office in Charlotte. Fifteen Trutech employees work throughout North Carolina. Mr. Coakley resides in Cary, North Carolina, and supervises the fifteen employees.
  9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:  
  
N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.  
(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:  
    - (8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations.
- 02 NCAC 34 .0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS
- (b) In no case shall containers of pesticide(s) be left where pets, domestic animals, children, or other unauthorized persons might remove or consume the contents.
10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

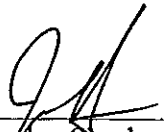
A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

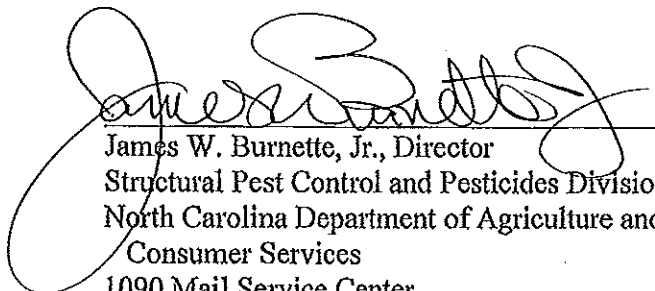
- (a) That Respondent shall pay the sum of four hundred dollars (\$400.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of four hundred dollars (\$400.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of four hundred dollars (\$400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges her right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

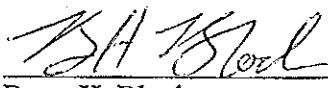
BY CONSENT:

  
Ansley Sherlock  
Trutech, LLC  
8508 Park Road PMB 185  
Charlotte, NC 28210

10/31/14  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/3/2014  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

11/10/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

MICHAEL B. FANNING, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE13-16

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael B. Fanning, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1572PW which was registered to his business address at Advanced Pest & Lawn, P.O. Box 44, Burgaw, North Carolina.
2. On August 5, 2013 Complainant's Eastern Field Manager and Field Inspector met with the Respondent regarding canine bed bug detection inspections performed by Johnsie S. McSwain.
3. Ms. McSwain is a registered technician working under the Respondent's Structural Pest Control License No. 1572PW since 2011.
4. Ms. McSwain is the president of Carolina Bed Bug Dog, aka K9 Sleuth Services, Inc. Carolina Bed Bug Dog offers canine inspections to locate the odor of bed bugs in residential and commercial locations.
5. Ms. McSwain operates Carolina Bed Bug Dog from her residence located at 2717 North Keswick Way in Greensboro, North Carolina. Records maintained by Ms. McSwain at her location bear the name, "Carolina Bed Bug Dog," as the company name; they make no mention of Advanced Pest & Lawn.

6. The Respondent stated that if bed bugs are found by Ms. McSwain during her inspection, he treats the infestation.

7. Advanced Pest & Lawn has not notified the Division that it does business as Carolina Bed Bug Dog.

8. Ms. McSwain's residence, the location of Carolina Bed Bug Dog, is more than 75 miles from Advanced Pest & Lawn.

9. During the investigation, Complainant's Eastern Field Manager and Field Inspector determined the following:

- a) The Respondent failed to supervise Ms. McSwain's structural pest control activities.
- b) The Respondent failed to maintain Ms. McSwain's structural pest records at his location.
- c) The Respondent failed to submit to the Committee a plan of supervision for an employee over 75 miles from his residence.
- d) The Respondent failed to register Ms. McSwain's location as a branch office.
- e) The Respondent failed to request authorization to operate a branch office more than 75 miles from his location.

10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the Committee, in writing, information to show that he/she is, in fact, controlling, directing, and supervising the structural pest control activities of said office or employee.

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.



02 NCAC 34 .0330 BRANCH OFFICE

(b) The licensee shall register each branch office with the Division prior to its establishment and at the time of renewal of the license on a form prescribed by the Division.

(c) Requests to operate a branch office more than 75 miles from the licensee's primary residence shall be made in writing to the Committee and shall include a plan of supervision in addition to the information in Paragraph (c) of this Rule. At a minimum, the plan of supervision shall include:

- (1) Complete training program, including a schedule of training;
- (2) A description of communication capabilities and procedures between the home office and branch office and between the consumer and the branch and home offices; and
- (3) A plan to be followed in the event of emergencies such as fire, pesticide spills or other emergency.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

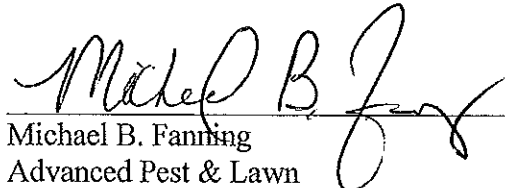
12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of eight hundred dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent denies he is guilty of any willful violation of the North Carolina Structural Pest Control Law or Regulations and his consent to the terms of this Agreement is made in order to timely resolve this matter and shall not be construed as an admission of guilt as to any of the violations alleged herein;
- (c) That Respondent agrees that if Respondent fails to pay the agreed upon sum of eight hundred dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of eight hundred dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

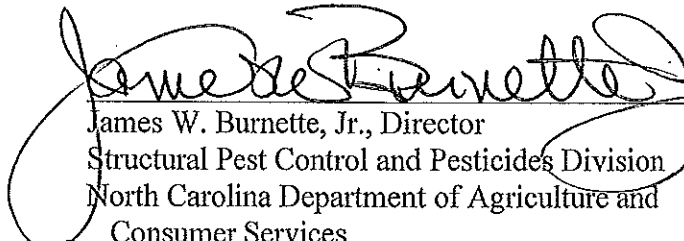
- (d) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(c) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(c) of this Agreement;
- (e) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (f) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

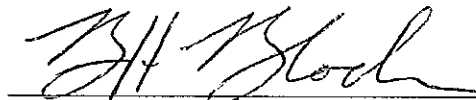
BY CONSENT:

  
\_\_\_\_\_  
Michael B. Fanning  
Advanced Pest & Lawn  
P.O. Box 44  
Burgaw, NC 28425

May 10<sup>th</sup> 2014  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

June 6, 2014  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

5/30/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ANDY BARTHOLOMEW, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPE13-12

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Andy Bartholomew, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1770PW which was registered to his business address at Orkin Exterminating Company, Inc., 3200 Turnage Road, Wilson, North Carolina.

2. On June 5, 2013 Complainant's Eastern District Supervisor determined the Respondent failed to register the Orkin Exterminating Company's branch office located at 2810 Meridian Parkway in Durham, North Carolina, with the Structural Pest Control Section in 2012.

3. The Respondent was the branch manager for Orkin Exterminating Company, Wilson, North Carolina, in 2012. Shawn Abbink was the branch manager for Orkin Exterminating Company, Durham, North Carolina, in 2012.

4. On June 19, 2013 Complainant's Eastern District Supervisor and Field Inspector met with the Respondent at the Orkin Exterminating Company's branch office in Durham, North Carolina. The Respondent stated that in May 2012 he sent the signed renewal form to register the Durham branch office to Mr. Abbink and instructed him to request a check to register the Durham branch office.

5. In September 2012 the Respondent determined Mr. Abbink never requested a check or registered the Durham branch office. The Respondent then reprocessed the renewal form with Mr. Abbink and instructed him to request a check and register the Durham branch office.

6. After Mr. Abbink was terminated in January 2013, the Respondent determined Mr. Abbink never requested a check or registered the Durham branch office in 2012. The Respondent's supervisor told him he would take care of the renewal.

7. On June 5, 2013 the Respondent determined that no one had registered the Durham branch office. He then visited the Structural Pest Control and Pesticides Division's office and registered the Durham branch office.

8. Complainant's Field Inspector reviewed production reports from the Durham branch office for two salesmen and ten technicians. The production reports from July 1, 2012 through June 4, 2013 showed the following:

Salesmen new business	\$ 467,220.80
Pest control	\$1,062,617.99
Termite control	\$ 552,189.50
Extra work during scheduled services	\$ 13,246.32

9. Orkin Exterminating Company, Inc., has instituted the following procedures to ensure that all technicians and sales employees in each location and the region have been properly registered:

- Each year, when annual renewals for state licenses and registration cards are due, each location is responsible for sending a copy of the renewed license and a copy of the "green card" for each employee on staff.
  - A listing from the payroll register will be checked by the Region Administrative Assistant to verify all are received at the region office.
  - All check requests going to Orkin corporate for the renewal of said licenses and registrations must come through the region office for approval by Region Manager, tracking and verification.
- Once the copies are received in the region office, they will be kept on file for a period of 5 years.
- All new employees hired after the June registration date will be monitored for receipt of their registration card.
  - When new hire paperwork is completed, a copy of each new employee file will be held in a pending status for approved training awaiting a copy of the NC State Registration Card before being released for file.
  - If copy of said card is not received within 90 days, follow up with management will be done.

10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.
- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

02 N.C. Admin. Code 34 .0330 BRANCH OFFICE

(a) A licensee shall not establish more than two branch offices in addition to his/her home office.

(b) The licensee shall register each branch office with the Division prior to its establishment and at the time of renewal of the license on a form prescribed by the Division.

(c) At a minimum, the licensee shall provide the following information concerning the branch office at the time of registration and within 10 days of any change in the information:

- (1) The physical location or address of the branch office;
- (2) The mailing address of the branch office;
- (3) The telephone number of the branch office;
- (4) The location, branch office or home office, at which records of work and pesticides used shall be stored;
- (5) An outline of the company organization showing the lines of supervision and responsibility, the credentials of supervisor(s) (education, experience, certification status), percentage of time devoted to supervision, methods and personnel conducting quality control; frequency of visits to the branch office and work sites by the licensee; and,
- (6) The names of all employees performing work from the branch office.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:


- (a) That Respondent shall pay the sum of ten thousand dollars (\$10,000.00) to the Complainant, the North Carolina Department of Agriculture and Consumer Services. Respondent's obligation to pay five thousand dollars (\$5,000.00) is hereby stayed for twelve (12) months running from the date Committee approves of this Agreement. This stay will continue so long as the Respondent and the certified applicators and registered technicians working under him comply with the North Carolina Structural Pest Control Law and Regulations. If the Complainant finds that Respondent, one of his certified applicators or one of his registered technicians has committed a new violation during said twelve month period, it will dissolve the stay and notify the Respondent that the stay has been dissolved and he must pay the remaining sum of \$5,000.00. In this event Respondent shall immediately pay the \$5,000.00 or request a show cause hearing before the Committee within ten business days from receipt of Respondent's notice. If Respondent commits no violation during the twelve month period, Respondent's promise and obligation to pay the remaining five thousand dollar (\$5,000.00) shall be cancelled. Complainant reserves the right to forbear from dissolving the stay as a matter within its discretion; forbearance upon one violation does not obligate Complainant to forbear from dissolving the stay for a second violation. Complainant reserves the right and authority to issue a new Notice of Violation for subsequent violations it finds, regardless of whether it dissolves the stay.
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of five thousand dollars (\$5,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of ten thousand dollars (\$10,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee on the civil penalty assessment contained in this Agreement and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the



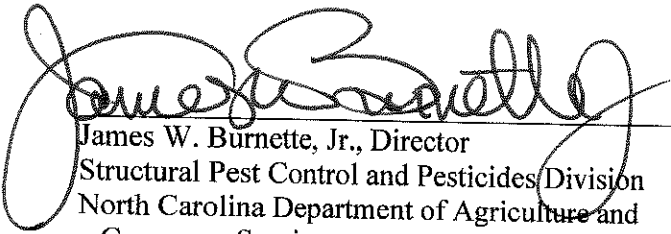
Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

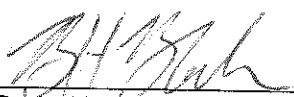
BY CONSENT:

  
\_\_\_\_\_  
Andy Bartholomew  
Orkin Exterminating Company, Inc.  
3200 Turnage Road  
Wilson, NC 27893

2-21-14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/24/14  
\_\_\_\_\_  
Date


  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

2/26/2014  
\_\_\_\_\_  
Date

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-7

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

JASON K. BURKHART,

Respondent.

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jason K. Burkhardt, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1814P which was registered to his business address at Trutech, LLC, 8508 Park Road, PMB 185, Charlotte, Mecklenburg County, North Carolina.
2. On February 6, 2014, Complainant's Field Inspector investigated a complaint regarding the improper storage of rodenticide and pesticide containers at the residence of Ansley Sherlock, 270 Twin Oaks Drive in Hampstead, North Carolina.
3. Complainant's Field Inspector went to Ms. Sherlock's residence and observed several pesticide containers stored outside bearing labels for the following pesticides:
  - Contrac All-Weather Blox
  - First Strike Soft Bait
  - Borid Insecticide
4. The registered label for Contrac All-Weather Blox contains the following language:  
Store only in original container in a cool, dry space inaccessible to children and pets.

The registered label for First Strike Soft Bait contains the following language:

**Pesticide Storage:** Store in original container in a cool, dry place inaccessible to children and pets.

The registered label for Borid Insecticide contains the following label language:  
Keep product in a locked storage area.

5. A packing slip at the site indicated the products were shipped to Trutech, Ansley Sherlock, 270 Twin Oaks Drive, Hampstead, North Carolina.
6. Later that same day Complainant's Field Inspector met with Ms. Sherlock at her residence. Ms. Sherlock stated that she started working for Trutech on February 1, 2013. She said that she reports to James Coakley, her manager. She attended two days of training in Marietta, Georgia, and two days of training in Raleigh, North Carolina. All her service tickets are mailed to Trutech's corporate office in Marietta, Georgia.
7. At the time of the inspection Ms. Sherlock did not have a registered technician's identification card. Ms. Sherlock was issued a registered technician's identification card on February 18, 2014.
8. Complainant's Field Inspector determined that the corporate office for Trutech, LLC, is located in Marietta, Georgia. The Respondent held Structural Pest Control License No. 1814P which was registered to his business address at Trutech in Charlotte, North Carolina. James Coakley, North Carolina District Manager, held Structural Pest Control License No. 2014P which was also registered to the Trutech office in Charlotte. Fifteen Trutech employees work throughout North Carolina. Mr. Coakley resides in Cary, North Carolina, and supervises the fifteen employees.
9. During the investigation and interviews with several Trutech employees, Complainant's Field Inspectors determined the following:
  - a. Trutech failed to provide an employee with the required 24 hours of on the job training before he mixed and applied pesticides.
  - b. Trutech failed to obtain registered technician identification cards within 75 days for three employees.
  - c. Trutech failed to make available all required structural pest control records during regular business hours at the Charlotte office.
  - d. Trutech failed to submit the names of recently hired employees to the Structural Pest Control Section.
  - e. Trutech Registered Technician failed to have a copy of the label for each pesticide being used, failed to maintain adequate spill control materials on his service vehicle, and failed to mark rodent bait stations with the signal word from the label.
10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the Committee, in writing, information to show that he/she is, in fact, controlling, directing, and supervising the structural pest control activities of said office or employee.

(d) The information required in Paragraph (b) of this Rule shall be submitted within 10 days of employment of any individual to which Paragraph (b) of this Rule applies and at the time the license or identification card is issued, reissued, or renewed.

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.

(c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon request by the Division.

#### 02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

#### 02 NCAC 34 .0406 SPILL CONTROL

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

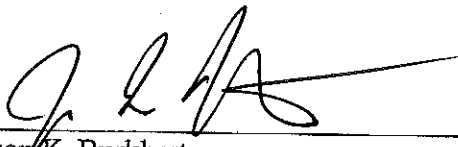
A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

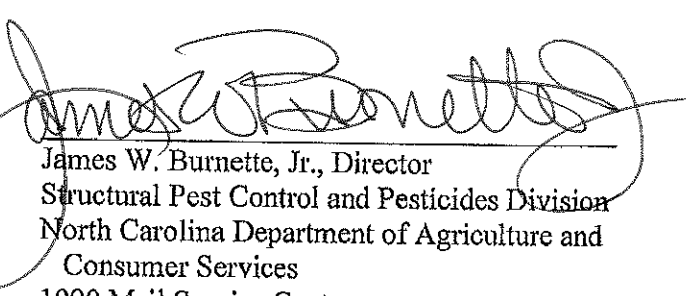
- (a) That Respondent shall pay the sum of two thousand dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of two thousand dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of two thousand dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

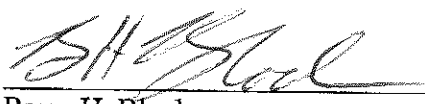
BY CONSENT:

  
\_\_\_\_\_  
Jason K. Burkhardt  
Trutech, LLC  
1140 Kildaire Farm Road, Suite 202, Room 4  
Cary, NC 27511

10/31/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/3/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

11/10/2014  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 17 day of November, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW13-7

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

MICHAEL A. COLE, )

Respondent. )

SETTLEMENT AGREEMENT

---

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael A. Cole, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a registered technician performing structural pest control under Albert S. Jourdan's Structural Pest Control License Number 963PW which was registered to his business address at Terminix Company of North Carolina, 260 Pinehurst Avenue, Southern Pines, North Carolina.
2. On October 26, 2012, Complainant's Field Inspector performed a request inspection for James Carr Moore and his daughter, Nanci Haines, at their home located at 2010 Airport Road in Whispering Pines, Moore County, North Carolina.
3. During the inspection Complainant's Field Inspector met with Mr. Moore and Ms. Haines. Ms. Haines stated that on October 10, 2012, the Respondent inspected their crawl space and stated that there were high moisture readings in the wooden members of the subfloor in the crawl space. He said that if the high moisture in the crawl space was not reduced, it could invalidate their termite warranty. He also spoke of mold and fungus in some areas of the crawl space.
4. The Respondent issued a written proposal for the installation of a dehumidifier in the crawl space for \$2,530.00. The written proposal indicated moisture readings in excess of 19%.

5. Mr. Moore gave the Respondent a check made out to Terminix for \$2,530.00. Terminix cashed the check the same day.

6. Before the installation of the dehumidifier, Mr. Moore and Ms. Haines called another pest control company for a second opinion. On October 13, 2012, the second pest control company inspected their crawl space and obtained lower moisture readings than those obtained by the Respondent on October 10, 2012. The pest control company suggested Mr. Moore and Ms. Haines contact the Structural Pest Control and Pesticides Division for an inspection.

7. During his inspection on October 26, 2012, Complainant's Field Inspector recorded moisture readings between 9% and 14% in the crawl space.

8. On October 30, 2012, Complainant's Field Inspector met with Charles L. Wade, Terminix branch manager, to inspect the property. During the second inspection, Complainant's Field Inspector recorded moisture readings between 9% and 14% in the crawl space.

9. Mr. Wade returned Mr. Moore's payment of \$2,530.00.

10. On November 11, 2012, Complainant's Field Inspector met with Albert S. Jourdan and the Respondent. The Respondent stated that he recorded moisture readings between 18% and 20% throughout the substructure. He stated that his moisture meter was calibrated a month before his inspection. He said there was one air conditioning duct work line that was down in the crawl space, and he put it back in place. He also said the air conditioning was running and pumping cold air into the crawl space and that the duct work was wet with moisture.

11. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

12. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or



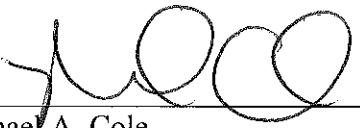
directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

13. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

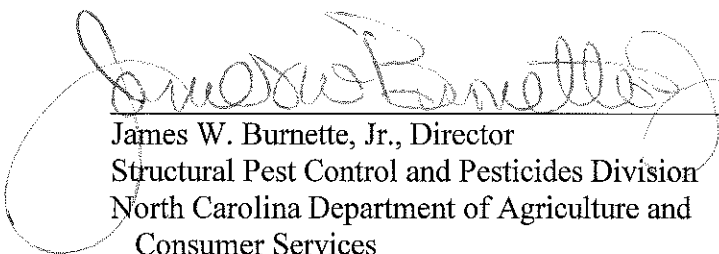
- (a) That Respondent shall pay the sum of eight hundred dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of eight hundred dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of eight hundred dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 13(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 13(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

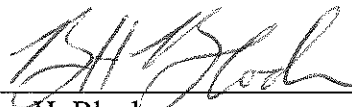
BY CONSENT:

  
\_\_\_\_\_  
Michael A. Cole  
Terminix Company of North Carolina  
260 Pinehurst Avenue  
Southern Pines, NC 28387

6-4-14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

6/19/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

6/20/14  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_

Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ELLIOTT HOLLINGSWORTH, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File Nos. SPE13-6

SPE13-15

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Elliott Hollingsworth, hereinafter referred to as Respondent.

1. At all times pertinent to these matters, Respondent held Structural Pest Control License Number 1432PW which was registered to his business address at BUG-N-A-RUG EXTERMINATORS, INC., 670 Wellington Avenue, New Hanover County, Wilmington, North Carolina.

SPE13-6

2. On October 1, 2012 BUG-N-A-RUG EXTERMINATORS, INC. issued an inaccurate Wood Destroying Insect Information Report (WDIR) for the structure located at 3816 Fawn Creek Drive in Wilmington, North Carolina. The Complainant issued a letter of caution on October 29, 2012.

3. On December 27, 2012 BUG-N-A-RUG EXTERMINATORS, INC. issued an inaccurate WDIR for the structure located at 4386 Harbortown Circle in Southport, North Carolina. The Complainant issued a Notice of Warning February 8, 2013.

4. On April 18, 2013 Complainant's Field Inspector conducted a routine inspection at BUG-N-A-RUG EXTERMINATORS, INC.

5. During the inspection, Complainant's Field Inspector determined that on March 20, 2013 BUG-N-A-RUG EXTERMINATORS, INC., issued an inaccurate WDIR for the structure located at 4147 Abbingdon Terrace in Wilmington, North Carolina.

6. Section 3 of the WDIR indicated the following:

- Inspection revealed visible evidence of subterranean termites.
- Two conflicting checkboxes (Box 2 and Box 3) were marked.
  - Box 2 No control measures were performed.  
The authorized company representative indicated termite tube stains on an interior garage wall and no drill holes under the heading "Location of visible evidence of infestation."
  - Box 3 Visible evidence of a previously treated infestation, which now appears to be inactive.  
The authorized company representative indicated bait stations along the perimeter of the house under the heading "Location of visible evidence of infestation."

SPE13-15

7. On August 5, 2013 Complainant's Field Inspector conducted a request inspection for Justin Tallmadge, 3602 Winston Boulevard, Wilmington, North Carolina. Mr. Tallmadge reported active termites and termite damage to his home.

8. Mr. Tallmadge contracted with BUG-N-A-RUG EXTERMINATORS, INC. to prepare a WDIR prior to the purchase of the property. The WDIR issued by BUG-N-A-RUG EXTERMINATORS on October 3, 2012 indicated visible evidence of a previously treated infestation, which now appears to be inactive.

9. Complainant's Field Inspector inspected the structure and observed the following:

- active termites at the back of the structure
- termite damage at the back of the structure and in the crawl space
- OSB siding making direct soil contact at the utility room
- wood debris in crawl space

10. The WDIR issued by BUG-N-A-RUG EXTERMINATORS was inaccurate in that it failed to disclose termite damage and failed to note conditions conducive to termites.

11. The Respondent has agreed to treat Mr. Tallmadge's structure for termites and possibly cover some of the cost to repair the termite damage.

12. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

02 NCAC 34 .0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

13. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

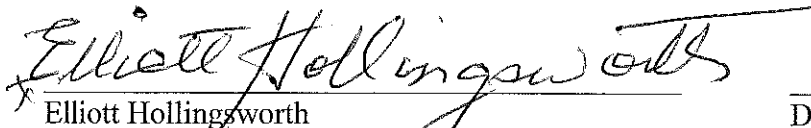
14. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand two hundred dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand two hundred dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand two hundred dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 14(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 14(b) of this Agreement;
- (d) That Respondent agrees to provide at least two hours of inspection and report writing training to all of his employees who are involved in WDIR inspections. This training is to take place within 45 days of the date this Agreement is approved by the Committee. If the training session is done by Respondent or one of his employees ("in house"), the Respondent shall provide the Complainant with advance notice of the training date and location so that the Complainant can send a Field Inspector to observe the training session. If the Respondent retains a trainer from outside his business or sends his employees to a class that includes inspection and report writing for WDIR inspections, Respondent shall inform the Complainant of the name of the instructor, date, time and place of the class.
- (e) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (f) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Elliott Hollingsworth  
BUG-N-A-RUG EXTERMINATORS, INC.,  
670 Wellington Avenue  
Wilmington, NC 28401

Date

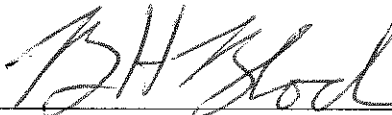
12/6/2013



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

Date

12/11/2013



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

Date

1/7/2014

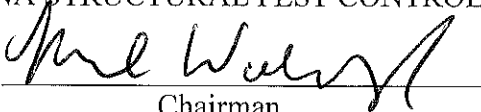
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APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:



Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

MICHAEL L. HOWARD, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW13-17

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael L. Howard, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1025PW which was registered to his business address at 2001 Clodfelter Road, Winston-Salem, North Carolina.

2. On September 18, 2013, Complainant's Field Inspector conducted a request inspection for Mr. and Mrs. Podgaysky. Mr. and Mrs. Podgaysky purchased their home at 209 Westover Drive in Lexington, Davidson County, North Carolina, on August 23, 2013.

3. Mr. and Mrs. Podgaysky found termite damage and active termites while remodeling the garage area of their home.

4. On August 12, 2013, Michael T. Nobles, a registered technician with B & G Extermination Company, issued a Wood-Destroying Insect Information Report for the residence located at 209 Westover Drive in Lexington, North Carolina.

5. The WDIR indicated the following:

- No visible evidence of infestation from wood destroying insects was observed.
- Wood in crawl space noted as a condition conducive to subterranean termites.

6. Complainant's Field Inspector inspected the residence and noted the following:



- Termite damage and active termites in the walls of the attached garage slab area.
- Termite damage and active termites in the master bedroom wall.
- Inactive powder post beetle evidence visible in the crawl space.
- Termite evidence visible in the double support beam in the crawl space.

7. On September 25, 2013, Complainant's Field Inspector met with Mr. Nobles at Mr. and Mrs. Podgaysky's residence. Complainant's Field Inspector showed Mr. Nobles the powder post beetle evidence, the termite evidence and the active termites in the structure.

8. On September 30, 2013, Complainant's Field Inspector met with Mr. Nobles and the Respondent at B & G Extermination Company. Mr. Nobles provided a statement indicating that all the evidence was hidden at the time of his inspection.

9. Mr. Nobles stated B & G Extermination Company would treat the entire home at no cost to the owner and put a one year service bond on the home. He further stated that B & G Extermination Company is not responsible for the termite damage.

10. Complainant's Field Inspector determined the WDIR issued by Mr. Nobles was inaccurate in that it failed to disclose termite damage and failed to disclose visible evidence of infestation from wood destroying insects.

11. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

12. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.


A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

13. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

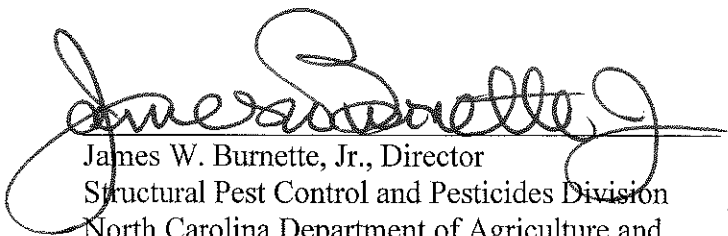
- (a) That Respondent shall pay the sum of six hundred dollars (\$600.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of six hundred dollars (\$600.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of six hundred dollars (\$600.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges; *Paid with Check # 1293*
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 13(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 13(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

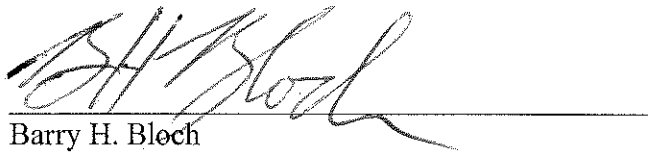
BY CONSENT:

  
Michael L. Howard  
B & G Extermination Company  
2001 Clodfelter Road  
Winston-Salem, NC 27107

1/14  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/12/2014  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629


2/14/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

JASON JACKIMOWICZ,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW13-6

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jason Jackimowicz, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a registered technician performing structural pest control under Charles W. Kinnel's North Carolina Structural Pest Control License Number 1807PW, which was registered to his business address at Terminix Service, Inc., 3206 Perry Street, Concord, North Carolina.
2. On December 13, 2012 Missy Weaver requested an inspection of her mother's home located at 938 Third Street in Spencer, Rowan County, North Carolina.
3. Ms. Weaver reported that her mother, Oma Lee Eagle, has a termite contract with Terminix. During the annual termite inspection on December 4, 2012, a Terminix employee told her she has active powder post beetles in her basement.
4. Another pest control company inspected the property and found no active infestation of powder post beetles.
5. On December 17, 2012 Complainant's Field Inspector inspected the property and noted the following:
  - a) Small holes in a cabinet on the front foundation wall of the basement. The holes were dark in color with no dust.
  - b) No evidence of powder post beetles in the visible areas of the sub-floor or floor joists.

- c) Moisture readings averaged 6% throughout the basement.
6. Mrs. Eagle stated that the Terminix employee told her he found active powder post beetles in her basement. Mrs. Eagle is unable to walk up or down stairs. He showed her a picture of her cabinet on his cell phone and said she had powder post beetles. The only paperwork the Terminix employee provided Mrs. Eagle was a Method of Payment Agreement.
7. The Method of Payment Agreement showed the following:  
Amount of Sale \$1,400.00  
MINIMUM 20% DOWN PAYMENT OF \$280.00 WITH SERVICE ORDER AND \$1,120.00 to be paid on job completion.
8. On December 17, 2012 Complainant's Field Inspector then went to the Terminix office in Harrisburg, North Carolina, and met with Sam Foust, the regional manager, Charles Kinnel, the licensee, and the Respondent, the employee who performed the inspection, to review Mrs. Eagle's file.
9. The Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property had not been turned in to the Terminix office.
10. The Respondent provided Complainant's Field Inspector with the Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property.
11. Complainant's Field Inspector reviewed the Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property and noted the following:
- a) The Liquid Treatment Service Plan indicated protection against powder post beetles in the substructure only.
  - b) The Liquid Treatment Service Plan indicated a guarantee of 12 months not the required 18 months for powder post beetles.
  - c) The Liquid Treatment Service Plan listed the wrong Terminix office address and licensee number.
  - d) The Moisture Inspection Graph signed by Ms. Eagles did not include a foundation diagram.
  - e) The Moisture Inspection Graph indicated High Moisture Readings 20% - 27%.
12. The Respondent stated that he has been employed by Terminix since May 2007. He further stated he is a registered technician, but did not have his card with him. He said he saw powder post beetles all over Mrs. Eagle's cabinet. He asked Mrs. Eagle to sign the incomplete Moisture Inspection Graph. He said he was going to fill out the Moisture Inspection Graph and return it to Mrs. Eagle with the powder post beetle biology. He did not take a moisture reading at the time of his inspection.
13. Mr. Foust stated that Mrs. Eagle's down payment will be returned to her.

14. On January 28, 2013 the Respondent attended Powder Post Beetle and Old House Borer training conducted by Kevin Hathorne, Training/Technical Supervisor, Terminix Service, at the Terminix office in Harrisburg. Complainant's Western Field Manager and Field Inspector participated in the compliance portion of the presentation.

15. The Respondent has received 20 hours of formal training during 2013. The training covered topics such as pest insects, chemicals, proper PPE and pest control equipment.

16. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

N.C. Gen. Stat. § 106-65.31. Annual certified applicator card and license fee; registration of servicemen, salesmen, solicitors, and estimators; identification cards.

(b1) Registration. – Within 75 days after the hiring of an employee who is either an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee. The application must be accompanied by a fee of forty dollars (\$40.00) for each card. The card shall be issued in the name of the employee and shall bear the name of the employing licensee, the employer's license number and phases, the name and address of the employer's business, and such other information as the Committee may specify. The identification card shall be carried by the employee on his person at all times while performing any phase of structural pest control work. The card must be displayed upon demand by the Commissioner, the Committee, the Division, or any representative thereof, or the person for whom any phase of structural pest control work is being performed.

02 NCAC 34 .0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, or his/her representative(s) making the inspection for wood-destroying beetles shall each be responsible for determining the presence or absence of an active infestation(s).

- (1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)

(B) The presence of holes alone or holes and dull colored frass shall not be acceptable evidence of an active infestation of powder post beetles except in cases where live larvae or pupae are found in wood members.

- (D) If a licensee provides a guarantee, warranty or service agreement in connection with a treatment for powder post beetles, the period of initial liability with regard to active infestation shall be 18 months from the original treatment date.

#### 02 NCAC 34 .0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall include the following:

- (7) A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall indicate:
  - (A) The location of individual water sources;
  - (B) Any visible evidence of wood-destroying organism infestation;
  - (C) Whether the infestation is active or inactive;
  - (D) The location of any visibly damaged timbers;
  - (E) Portions of the structure treated and not treated.

#### 02 NCAC 34 .0904 PROHIBITED ACTS

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

17. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

18. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order to completely and finally resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of nine hundred dollars (\$900.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of nine hundred dollars (\$900.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of nine hundred dollars (\$900.00) for violations of

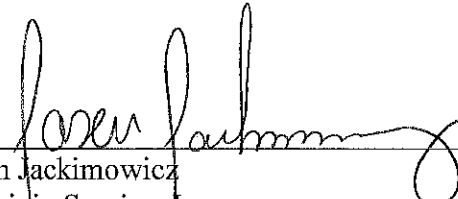
the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 18(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 18(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

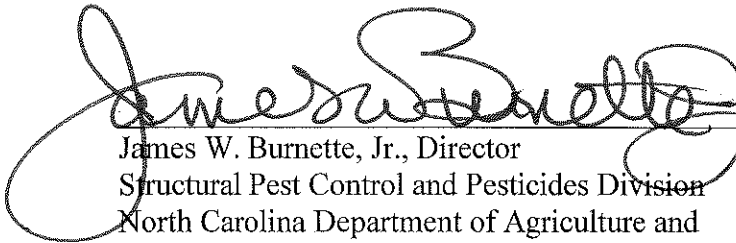


WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
\_\_\_\_\_  
Jason Jackimowicz  
Terminix Service, Inc.  
3206 Perry Street  
Concord, NC 28027

1/15/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/3/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629


1/27/2014  
\_\_\_\_\_  
Date

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APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

LLOYD D. JARVIS,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW13-5

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Lloyd D. Jarvis, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent did not hold a North Carolina Structural Pest Control License.
2. On December 7, 2012 Complainant's Field Inspector performed a request inspection for Brian and Aimee Taylor at 1594 Vashti Road in Taylorsville, North Carolina. Mrs. Taylor contacted the Structural Pest Control Section when she was unable to contact Northstate Pest Control, Inc.
3. Mrs. Taylor reported they moved into their newly constructed home in September 2012 and that their builder, M & T Investment Builders, Inc., provided documents that showed Northstate Pest Control applied Cyper TC (cypermethrin) on June 25, 2012 and August 27, 2012. The documents listed Donald L. Hammer as the licensee.
4. The Structural Pest Control Section's records indicate Mr. Hammer's structural pest control license expired on June 30, 2009 and that Mr. Hammer's former business partner, the Respondent, has not obtained a structural pest control license.
5. Complainant's Field Inspector collected a soil sample from the outside foundation wall of the Taylor's home. Laboratory analysis of this sample revealed less than 1% of the active ingredient cypermethrin.

6. The Respondent contacted Mrs. Taylor and stated that he provided the wrong paper work and that he was working for a different company. He said he would provide the proper paper work and make a complimentary treatment on December 8, 2012.

7. Mr. Taylor reported that on December 8, 2012 the Respondent arrived in a truck marked Northstate Pest Control and treated the outside foundation wall. He provided a Dixieland Termite and Pest Control Pre-Construction Subterranean Termite Control Guarantee.

8. On December 10, 2012 Complainant's Field Inspector collected a soil sample from the outside foundation wall of the Taylor's home. Laboratory analysis of this sample revealed 10% of the active ingredient cypermethrin.

9. On December 18, 2012 Complainant's Field Inspector met with Steve Dowdle, the licensee for Dixieland Termite and Pest Control, Statesville, North Carolina. Mr. Dowdle stated that after Don A. Allie's retirement, calls to Don A. Allie & Company are forwarded to Dixieland Termite and Pest Control.

10. On December 8, 2012 the Respondent called on the Don A. Allie & Company line requesting paper work for the Taylor's property. Mr. Dowdle thought the Respondent worked for Mr. Allie and issued a Pre-Construction Subterranean Termite Control Guarantee.

11. Mr. Dowdle said neither the Respondent nor Mr. Hammer have been employed by Dixieland Termite and Pest Control.

12. Mr. Dowdle agreed to retreat the Taylor's property.

13. Complainant's Western Field Manager and Field Inspector obtained copies of building records from the Alexander County Building Inspection Department for M & T Investment Builders after June 30, 2009.

14. The building records showed the following:

- a) Four pre-treatment services by Northstate Pest Control.
- b) Three pre-treatment services by Dixieland Termite and Pest Control.
- c) Three work order forms indicating pre-treatment services by Northstate Pest Control.

15. Complainant's Western Field Manager and Field Inspector met with the Respondent. The Respondent stated that he had forged Dixieland Termite and Pest Control documents. He said that he has only been performing structural pest control work for M & T Investment Builders since Mr. Hammer's license expired.

16. Fred McIlvain of M & T Investment Builders provided Complainant's Field Inspector with records for ten properties treated by the Respondent after June 30, 2009. The Respondent earned approximately \$4,000.00.

17. The Respondent provided Complainant's Deputy Director, Structural Pest Control Programs, with a signed letter stating that he will no longer perform pest control work.

18. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

19. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

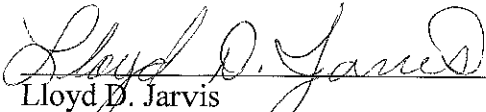
20. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order to completely and finally resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent agrees to pay the sum of four thousand dollars (\$4,000.00) to the North Carolina Department of Agriculture and Consumer Services in ten (10) equal installments at 30-day intervals. The first payment of four hundred dollars (\$400.00) shall be due and payable on the thirtieth day after the Committee's approval of this Agreement;
- (b) That Respondent agrees that if he fails to pay the agreed upon sum of four thousand dollars (\$4,000.00) as outlined in paragraph 20(a) of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of four thousand dollars (\$4,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 20(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 20(b) of this Agreement;

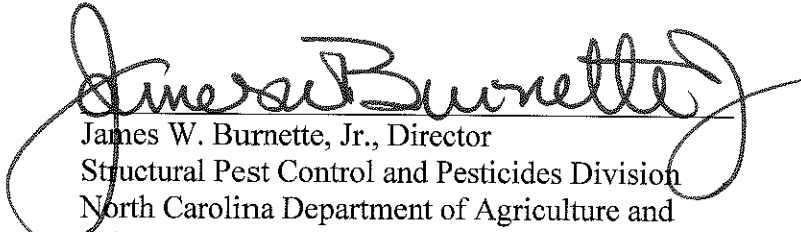
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in N.C. Gen. Stat. § 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, N.C. Gen. Stat. § 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

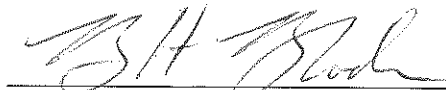
BY CONSENT:

  
Lloyd D. Jarvis  
1955 Jud Smith Road  
Hiddenite, NC 28636

10/30/13  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11-18-13  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

14 NOV 2013  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

DALE A. JORDAN, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW13-3

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Dale A. Jordan, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1988W which was registered to his business address at Omega Pest Solutions, P.O. Box 48, Kannapolis, North Carolina.
2. On November 13, 2012 Complainant's Field Inspector investigated a complaint by Kathy Smith, 830 Goodnight Road, Salisbury, North Carolina. Ms. Smith reported that she paid a pest control company \$17,000.00 to perform a wood destroying organism treatment and that the company did not fulfill the contract. Ms. Smith said that she still has bugs. She had two other companies inspect her property and they found no reason to treat her property.
3. Complainant's Field Inspector met with Ms. Smith at her residence. Ms. Smith provided Complainant's Field Inspector with her copy of the Wood Destroying Organism Service Agreement issued March 2, 2012 by the Respondent.
4. The agreement stated the treatment was corrective. The agreement indicated that the residence and two outbuildings were treated to control mold, powder post beetles and old house borers. The total amount due for the treatments, installation of a moisture barrier and automatic ventilation system was \$17,000.00 to be paid in two payments of \$8,500.00. Ms. Smith showed Complainant's Field Inspector her two cancelled checks for \$8,500.00 each.

5. Complainant's Field Inspector reviewed Ms. Smith's copy of the Wood Destroying Organism Service Agreement and noted that the agreement did not include the following:
- Foundation diagrams of the buildings.
  - Names of the chemicals applied.
  - A statement describing specific evidence of an active powder post beetle infestation.
  - Information as to the type and quality of the work to be preformed.
  - The methods to be used for the control of the insects.
6. Complainant's Field Inspector inspected the property and observed a sticky residue on the moisture barrier in the crawl space.
7. On November 20, 2012 Complainant's Field Inspectors inspected Ms. Smith's property and found no visible evidence that would require any type of treatment.
8. On November 27, 2012 Complainant's Western Field Manager and Field Inspector contacted the Respondent and requested copies of the paperwork for Ms. Smith's property. The Respondent agreed to meet with Complainant's Western Field Manager and Field Inspector on November 28, 2012 at Omega Pest Solutions.
9. On November 28, 2012 Complainant's Western Field Manager and Field Inspector met with the Respondent at Omega Pest Solutions. The Respondent stated that he had lost Ms. Smith's paperwork and was unable to recall the conditions that would warrant the treatments that he made to Ms. Smith's property for mold, wood-destroying insects and household pests.
10. The Respondent said that he applied the following:
- Shockwave Fogging Concentrate to the crawlspace and outbuildings.
  - Mold-Ram to the wood under the house.
  - CB-80 Extra Insecticide to the outbuildings and house.
  - Suspend SC to the outbuildings, house, attic and crawlspace.
11. During the inspection, Complainant's Field Inspectors collected a sample from the moisture barrier in the crawl space. Laboratory analysis of this sample revealed the presence of the active ingredients found in Shockwave Fogging Concentrate and Suspend SC.
12. The Respondent has refunded Ms. Smith's payments of seventeen thousand dollars (\$17,000.00).
13. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:



- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.
- (2) Failure of the licensee or certified applicator to give the Committee, the Commissioner, or their authorized representatives, upon request, true information regarding methods and materials used, or work performed.

02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.

02 NCAC 34 .0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, or his/her representative(s) making the inspection for wood-destroying beetles shall each be responsible for determining the presence or absence of an active infestation(s).

- (1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)
  - (A) The presence of frass, the color of fresh cut wood, will be acceptable as evidence of an active infestation of powder post beetles.
  - (B) The presence of holes alone or holes and dull colored frass shall not be acceptable evidence of an active infestation of powder post beetles except in cases where live larvae or pupae are found in wood members.

02 NCAC 34 .0601 AGREEMENTS

(a) Before any treatment is started, the licensee or his authorized agent shall execute, and furnish to the property owner or his authorized agent, a written proposal informing the property owner or his authorized agent, as to the type and quality of work that is to be performed. The written proposal shall contain that information specified in 02 NCAC 34 .0605 and, upon written acceptance by the property owner or authorized agent, shall suffice as the written agreement, required by Paragraph (b) of this Rule.

02 NCAC 34 .0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable) for the control or prevention of any wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement. The duplicate of each written agreement shall contain, in addition to the information specified under 02 NCAC 34 .0605, the following:

- (1) EPA approved brand name of pesticide used;
- (2) Names of all employees who applied pesticide;
- (3) Information required by EPA.

02 NCAC 34 .0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall include the following:

- (7) A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall indicate:
  - (A) The location of individual water sources;
  - (B) Any visible evidence of wood-destroying organism infestation;
  - (C) Whether the infestation is active or inactive;
  - (D) The location of any visibly damaged timbers;
  - (E) Portions of the structure treated and not treated.

02 NCAC 34 .0904 PROHIBITED ACTS

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

14. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

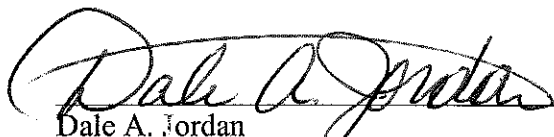
15. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand five hundred dollars (\$1,500.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand five hundred dollars (\$1,500.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand five hundred dollars (\$1,500.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 15(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 15(b) of this Agreement;
- (d) That Respondent acknowledges and agrees that neither he nor his employer shall seek to remove or cause any third party to remove the moisture barrier and the automatic ventilation system installed under his supervision in Ms. Smith's home;
- (e) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (f) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

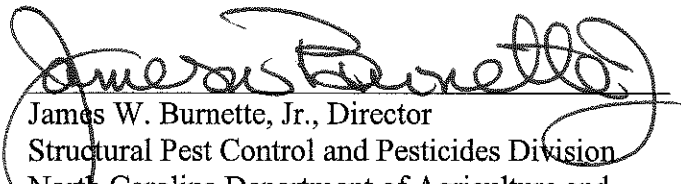
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



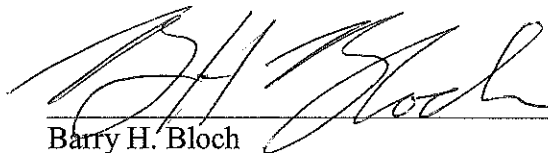
Dale A. Jordan  
Omega Pest Solutions  
P.O. Box 48  
Kannapolis, NC 28082

10-15-13  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

10-28-2013  
Date




Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

10/30/2013  
Date

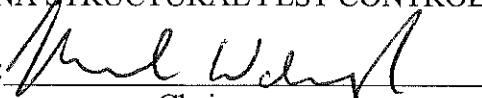
\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 27 day of February, 2014 

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:

  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW13-7

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ALBERT S. JOURDAN, )

Respondent. )

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Albert S. Jourdan, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 963PW which was registered to his business address at Terminix Company of North Carolina, 260 Pinehurst Avenue, Southern Pines, North Carolina.
2. On October 26, 2012, Complainant's Field Inspector performed a request inspection for James Carr Moore and his daughter, Nanci Haines, at their home located at 2010 Airport Road in Whispering Pines, Moore County, North Carolina.
3. During the inspection Complainant's Field Inspector met with Mr. Moore and Ms. Haines. Ms. Haines stated that on October 10, 2012, Michael A. Cole, a salesperson for the Terminix office located in Southern Pines, North Carolina, inspected their crawl space and stated that there were high moisture readings in the wooden members of the subfloor in the crawl space. He said that if the high moisture in the crawl space was not reduced, it could invalidate their termite warranty. He also spoke of mold and fungus in some areas of the crawl space.
4. Mr. Cole issued a written proposal for the installation of a dehumidifier in the crawl space for \$2,530.00. The written proposal indicated moisture readings in excess of 19%.
5. Mr. Moore gave Mr. Cole a check made out to Terminix for \$2,530.00. Terminix cashed the check the same day.

6. Before the installation of the dehumidifier, Mr. Moore and Ms. Haines called another pest control company for a second opinion. On October 13, 2012, the second pest control company inspected their crawl space and obtained lower moisture readings than those obtained by Mr. Cole on October 10, 2012. The pest control company suggested Mr. Moore and Ms. Haines contact the Structural Pest Control and Pesticides Division for an inspection.

7. During his inspection on October 26, 2012, Complainant's Field Inspector recorded moisture readings between 9% and 14% in the crawl space.

8. On October 30, 2012, Complainant's Field Inspector met with Charles L. Wade, Terminix branch manager, to inspect the property. During the second inspection, Complainant's Field Inspector recorded moisture readings between 9% and 14% in the crawl space.

9. Mr. Wade returned Mr. Moore's payment of \$2,530.00.

10. On November 11, 2012, Complainant's Field Inspector met with the Respondent and Mr. Cole. Mr. Cole stated that he recorded moisture readings between 18% and 20% throughout the substructure. He stated that his moisture meter was calibrated a month before his inspection. He said there was one air conditioning duct work line that was down in the crawl space, and he put it back in place. He also said the air conditioning was running and pumping cold air into the crawl space and that the duct work was wet with moisture.

11. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

12. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

13. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of six hundred dollars (\$600.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of six hundred dollars (\$600.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of six hundred dollars (\$600.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 13(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 13(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

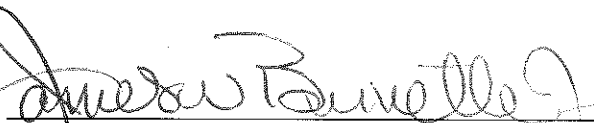
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Albert S. Jourdan  
Terminix Company of North Carolina  
260 Pinehurst Avenue  
Southern Pines, NC 28387

6-4-14  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

6/19/14  
Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

6/20/14  
Date

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

CHARLES W. KINNEL,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW13-6

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Charles W. Kinnel, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1807PW which was registered to his business address at Terminix Service, Inc., 3206 Perry Street, Concord, North Carolina.
2. On December 13, 2012 Missy Weaver requested an inspection of her mother's home located at 938 Third Street in Spencer, Rowan County, North Carolina.
3. Ms. Weaver reported that her mother, Oma Lee Eagle, has a termite contract with Terminix. During the annual termite inspection on December 4, 2012, a Terminix employee told her she has active powder post beetles in her basement.
4. Another pest control company inspected the property and found no active infestation of powder post beetles.
5. On December 17, 2012 Complainant's Field Inspector inspected the property and noted the following:
  - a) Small holes in a cabinet on the front foundation wall of the basement. The holes were dark in color with no dust.
  - b) No evidence of powder post beetles in the visible areas of the sub-floor or floor joists.
  - c) Moisture readings averaged 6% throughout the basement.

6. Mrs. Eagle stated that the Terminix employee told her he found active powder post beetles in her basement. Mrs. Eagle is unable to walk up or down stairs. He showed her a picture of her cabinet on his cell phone and said she had powder post beetles. The only paperwork the Terminix employee provided Mrs. Eagle was a Method of Payment Agreement.
7. The Method of Payment Agreement showed the following:  
Amount of Sale \$1,400.00  
MINIMUM 20% DOWN PAYMENT OF \$280.00 WITH SERVICE ORDER AND \$1,120.00 to be paid on job completion.
8. On December 17, 2012 Complainant's Field Inspector then went to the Terminix office in Harrisburg, North Carolina, and met with the Respondent, Sam Foust, the regional manager, and Jason Jackimowicz, the employee who performed the inspection, to review Mrs. Eagle's file.
9. The Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property had not been turned in to the Terminix office.
10. Mr. Jackimowicz provided Complainant's Field Inspector with the Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property.
11. Complainant's Field Inspector reviewed the Liquid Treatment Service Plan and Moisture Inspection Graph for Mrs. Eagle's property and noted the following:
  - a) The Liquid Treatment Service Plan indicated protection against powder post beetles in the substructure only.
  - b) The Liquid Treatment Service Plan indicated a guarantee of 12 months not the required 18 months for powder post beetles.
  - c) The Liquid Treatment Service Plan listed the wrong Terminix office address and licensee number.
  - d) The Moisture Inspection Graph signed by Ms. Eagles did not include a foundation diagram.
  - e) The Moisture Inspection Graph indicated High Moisture Readings 20% - 27%.
12. Mr. Jackimowicz stated that he has been employed by Terminix since May 2007. He further stated he is a registered technician, but did not have his card with him. He said he saw powder post beetles all over Mrs. Eagle's cabinet. He asked Mrs. Eagle to sign the incomplete Moisture Inspection Graph. He said he was going to fill out the Moisture Inspection Graph and return it to Mrs. Eagle with the powder post beetle biology. He did not take a moisture reading at the time of his inspection.
13. Mr. Foust stated that Mrs. Eagle's down payment will be returned to her.
14. On January 28, 2013 Mr. Jackimowicz attended Powder Post Beetle and Old House Borer training conducted by Kevin Hathorne, Training/Technical Supervisor, Terminix Service, at the Terminix office in Harrisburg. Complainant's Western Field Manager and Field Inspector participated in the compliance portion of the presentation.

15. Mr. Jackimowicz has received 20 hours of formal training during 2013. The training covered topics such as pest insects, chemicals, proper PPE and pest control equipment.

16. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

17. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

18. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order to completely and finally resolve the parties' claims and differences as stated above upon the following conditions:

(a) That Respondent shall pay the sum of five hundred dollars (\$500.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

(b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of five hundred dollars (\$500.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of five hundred dollars (\$500.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

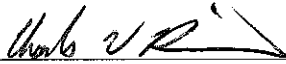
(c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 18(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection

procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 18(b) of this Agreement;

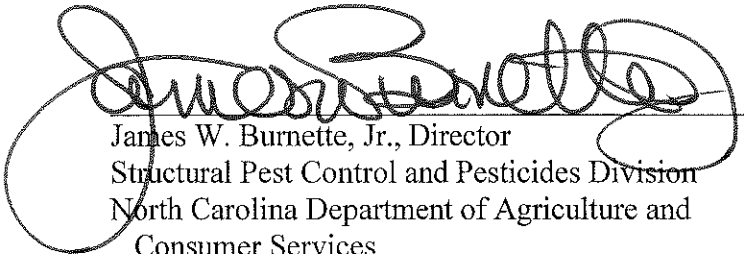
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

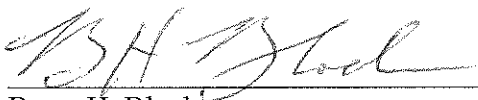
BY CONSENT:

  
\_\_\_\_\_  
Charles W. Kinnel  
Terminix Service, Inc.  
3206 Perry Street  
Concord, NC 28027

1/15/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/3/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629


2/27/2014  
\_\_\_\_\_  
Date

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APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

MICHAEL T. NOBLES,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW13-17

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael T. Nobles, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a registered technician performing structural pest control under Michael L. Howard's North Carolina Structural Pest Control License Number 1025PW which was registered to his business address at 2001 Clodfelter Road, Winston-Salem, North Carolina.
2. On September 18, 2013, Complainant's Field Inspector conducted a request inspection for Mr. and Mrs. Podgaysky. Mr. and Mrs. Podgaysky purchased their home at 209 Westover Drive in Lexington, Davidson County, North Carolina, on August 23, 2013.
3. Mr. and Mrs. Podgaysky found termite damage and active termites while remodeling the garage area of their home.
4. On August 12, 2013, the Respondent issued a Wood-Destroying Insect Information Report for the residence located at 209 Westover Drive in Lexington, North Carolina.
5. The WDIR indicated the following:
  - No visible evidence of infestation from wood destroying insects was observed.
  - Wood in crawl space noted as a condition conducive to subterranean termites.
6. Complainant's Field Inspector inspected the residence and noted the following:

- Termite damage and active termites in the walls of the attached garage slab area.
- Termite damage and active termites in the master bedroom wall.
- Inactive powder post beetle evidence visible in the crawl space.
- Termite evidence visible in the double support beam in the crawl space.

7. On September 25, 2013, Complainant's Field Inspector met with the Respondent at Mr. and Mrs. Podgaysky's residence. Complainant's Field Inspector showed the Respondent the powder post beetle evidence, the termite evidence and the active termites in the structure.

8. On September 30, 2013, Complainant's Field Inspector met with the Respondent and Michael L. Howard at B & G Extermination Company. The Respondent provided a statement indicating that all the evidence was hidden at the time of his inspection.

9. The Respondent stated B & G Extermination Company would treat the entire home at no cost to the owner and put a one year service bond on the home. He further stated that B & G Extermination Company is not responsible for the termite damage.

10. Complainant's Field Inspector determined the WDIR issued by the Respondent was inaccurate in that it failed to disclose termite damage and failed to disclose visible evidence of infestation from wood destroying insects.

11. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

#### 02 NCAC 34 .0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

12. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

13. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of eight hundred dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of eight hundred dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of eight hundred dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges; *Paid with CK # 1293*
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 13(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 13(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.



WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

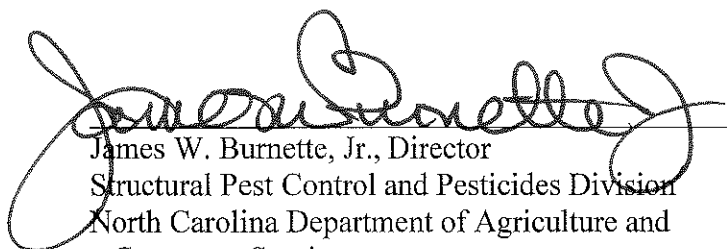
BY CONSENT:



Michael T. Nobles  
B & G Extermination Company  
2001 Clodfelter Road  
Winston-Salem, NC 27107

2-7-2014

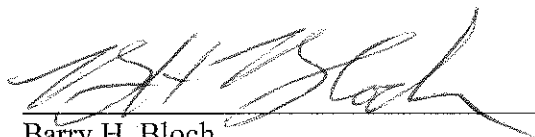
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/12/2014

Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

2/14/2014

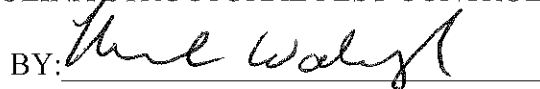
Date

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APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

MICHAEL S. PRIDGEN,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPE13-10

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Michael S. Pridgen, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 2002PW which was registered to his business address at Terminix Company of North Carolina, 7716-D Raeford Road, Fayetteville, North Carolina.
2. On May 22, 2013 the Structural Pest Control and Pesticides Division received a referral from EPA Region 4 regarding the improper disposal of pesticides at the Terminix facility located at 7716-D Raeford Road in Fayetteville, Cumberland County, North Carolina.
3. On May 29, 2013 Complainant's Eastern Field Manager and Field Inspector met with the Respondent at the Terminix facility. The Respondent stated that he was unaware of any pesticides being dumped or spilled at the facility. The Terminix employees only apply Prothor SC 2.
4. During the inspection, Complainant's Eastern Field Manager and Field Inspector inspected the area behind the facility and observed dead vegetation where the employees mix and load Prothor SC 2.
5. Complainant's Eastern Field Manager and Field Inspector collected the following sample.

4490006720RO1 soil from mix and load area

6. Laboratory analysis of this sample revealed the presence of imidacloprid, the active ingredient in Prothor SC2, at 36.9 ppm.

7. The registered label for Prothor SC 2 contains the following language:

STORAGE AND DISPOSAL

Wastes resulting from the use of this product may be disposed of on site (in the treatment area) or at an approved waste disposal facility.

8. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (5) Willful violation of any rule or regulation adopted pursuant to this Article.
- (9) Using any pesticide in manner inconsistent with its labeling.

02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

9. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

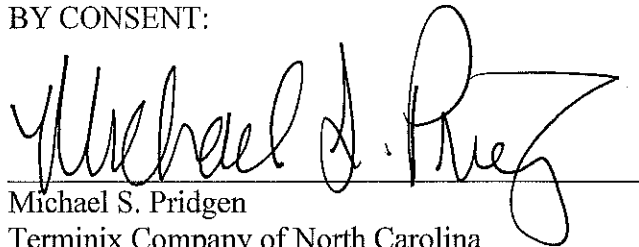
10. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand dollars (\$1,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand dollars (\$1,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand dollars (\$1,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 10(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 10(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

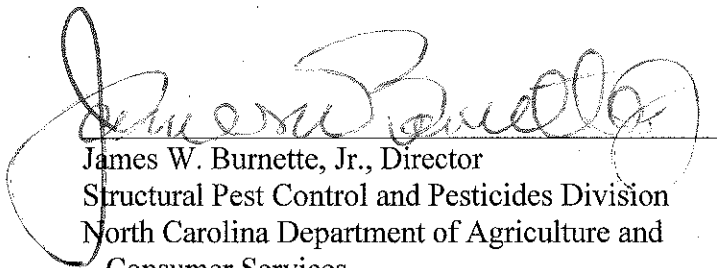
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Michael S. Pridgen  
Terminix Company of North Carolina  
P.O. Box 2587  
Fayetteville, NC 28302

12-4-13  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

12/9/13  
Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

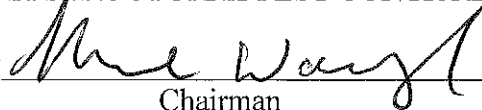
12/10/2013  
Date

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APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

ANSLEY SHERLOCK,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPW14-7

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Ansley Sherlock, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a technician performing structural pest control under Jason K. Burkhart's North Carolina Structural Pest Control License No. 1814P which was registered to his business address at Trutech, LLC, 8508 Park Road, PMB 185, Charlotte, North Carolina.
2. On February 6, 2014, Complainant's Field Inspector investigated a complaint regarding the improper storage of rodenticide and pesticide containers at the Respondent's residence located at 270 Twin Oaks Drive in Hampstead, Pender County, North Carolina.
3. Complainant's Field Inspector went to the Respondent's residence and observed several pesticide containers stored outside bearing labels for the following pesticides:
  - Contrac All-Weather Blox
  - First Strike Soft Bait
  - Borid Insecticide
4. The registered label for Contrac All-Weather Blox contains the following language:  
Store only in original container in a cool, dry space inaccessible to children and pets.

The registered label for First Strike Soft Bait contains the following language:

**Pesticide Storage:** Store in original container in a cool, dry place inaccessible to children and pets.

The registered label for Borid Insecticide contains the following label language:  
Keep product in a locked storage area.

5. A packing slip at the site indicated the products were shipped to Trutech, Ansley Sherlock, 270 Twin Oaks Drive, Hampstead, North Carolina.
  6. Later that same day Complainant's Field Inspector met with the Respondent at her residence. She stated that she started working for Trutech on February 1, 2013. She said that she reports to James Coakley, her manager. She attended two days of training in Marietta, Georgia and two days of training in Raleigh, North Carolina. All her service tickets are mailed to Trutech's corporate office in Marietta, Georgia.
  7. At the time of the inspection the Respondent did not have a registered technician's identification card. She was issued a registered technician's identification card on February 18, 2014.
  8. Complainant's Field Inspector determined that the corporate office for Trutech, LLC, is located in Marietta, Georgia. Jason K. Burkhart held Structural Pest Control License No. 1814P which was registered to his business address at Trutech in Charlotte, North Carolina. James Coakley, North Carolina District Manager, held Structural Pest Control License No. 2014P which was also registered to the Trutech office in Charlotte. Fifteen Trutech employees work throughout North Carolina. Mr. Coakley resides in Cary, North Carolina, and supervises the fifteen employees.
  9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:
    - N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.
    - (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:
      - (8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations.
- 02 NCAC 34 .0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS
- (b) In no case shall containers of pesticide(s) be left where pets, domestic animals, children, or other unauthorized persons might remove or consume the contents.
10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.


11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of four hundred dollars (\$400.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of four hundred dollars (\$400.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of four hundred dollars (\$400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges her right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

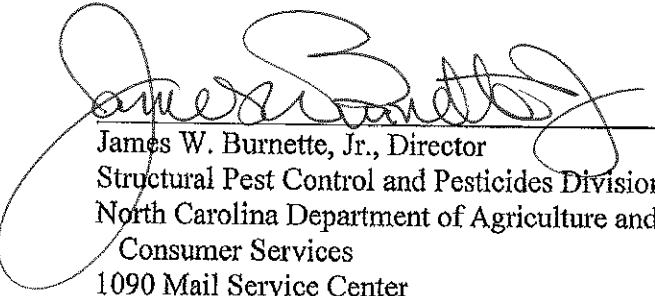


WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

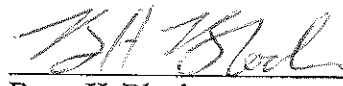
BY CONSENT:

  
Ansley Sherlock  
Trutech, LLC  
8508 Park Road PMB 185  
Charlotte, NC 28210

10/31/14  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/3/2014  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

11/10/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 17 day of November, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

BENNY L. WILLIAMS,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPE13-14

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Benny L. Williams, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1320PW which was registered to his business address at Williams Termite and Pest Control, 3108 Yarrell Creek Road, Williamston, North Carolina.
2. On August 2, 2013 Complainant's Eastern Field Manager and Field Inspector investigated a complaint by Janyce Thomas, 505 South Haughton Street in Williamston, Martin County, North Carolina. Ms. Thomas reported that the Respondent treated her home for subterranean termites on July 23, 2013.
3. Ms. Thomas reported that when treating the fireplace, the Respondent drilled too high and deposited Termidor SC in her living room. Ms. Thomas hired BioDryClean Dry Carpet Cleaning to clean her living room carpeting on July 23, 2013.
4. Ms. Thomas stated that she experienced a tingling sensation in her lower extremities and watery eyes a few days after the application. She did not seek medical attention.
5. During the inspection, Complainant's Eastern Field Manager and Field Inspector determined the following:

- The Respondent failed to check the area to be treated and immediately adjacent areas of the structure prior to the application.
- The Respondent failed to drill the pillars in the crawl space.

6. Complainant's Eastern Field Manager and Field Inspector collected the following sample:

2470019410R01      carpet fibers from Ms. Thomas's carpet

7. Laboratory analysis of this sample revealed the presence of fipronil, the active ingredient in Termidor SC, at 57 ppm.

8. The registered label for Termidor SC contains the following language:

#### USE RESTRICTIONS

When treating adjacent to an existing structure, the applicator must check the area to be treated, and immediate adjacent areas of the structure, for visible and accessible cracks and holes to prevent any leaks or significant exposures to persons occupying the structure.

After application, the applicator is required to check for leaks. All leaks resulting in the deposition of termiticide in locations other than those prescribed on this label must be cleaned up prior to leaving the application site.

9. The Respondent paid BioDryClean Dry Carpet Cleaning and refunded Ms. Thomas's payment for the subterranean termite treatment.

10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(9) Using any pesticide in manner inconsistent with its labeling.

#### 02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

#### 02 NCAC 34 .0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER CONSTRUCTED

(a) The following standards and requirements apply to the treatment of a building for subterranean termite control after construction if the building has a basement or crawl space:

- (9) Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to, but not more than six inches from, all pillars, pilasters, chimneys, pressure treated wood supports, and step buttresses; inside of foundation walls; outside of foundation walls; the outside of foundation walls of concrete slabs over dirt-filled areas, and the entire perimeter of a slab foundation wall from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. The trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, drill three-eighths of one inch or larger holes, not more than 12 inches apart and within six inches of the foundation wall, through slabs or through adjoining foundation wall, and rod treat soil below slabs as indicated above to establish a continuous termiticide barrier at all known points of entry. The soil immediately around pipes and other utility conduits making contact with the structure shall be treated.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand dollars (\$1,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand dollars (\$1,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand dollars (\$1,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection

procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(b) of this Agreement;

- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

Benny L. Williams  
Benny L. Williams  
Williams Termite and Pest Control  
3108 Yarrell Creek Road  
Williamston, NC 27892

1-8-2014  
Date

James W. Burnette, Jr.  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

2/3/2014  
Date

Barry H. Bloch  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

1/14/2014  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 27 day of February, 2014.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: Mike Ward  
Chairman

**N.C. STRUCTURAL PEST CONTROL COMMITTEE**  
1090 Mail Service Center  
Raleigh, NC 27699-1090  
(919) 733-6100

**MEETING AGENDA**

**March 17, 2015**  
**9:00 a.m.**

**Atrium of the NC Fair Grounds Exposition Center**  
1025 Blue Ridge Blvd, Raleigh NC 27607  
Phone: (919) 821-7400

**MANDATORY ETHICS INQUIRY** - North Carolina General Statute 138A-15(e) mandates that the Committee Chair shall remind all Committee Members, of their duty to avoid conflicts of interest and appearances of conflict under this Chapter, and that the chair also inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any agenda item coming before the Committee at this time. It is the duty of each Member who is aware of such personal conflict of interest or of an appearance of a conflict, to notify the Chair of the same, and to refrain from inappropriate participation on that agenda item.

1. **Ethics Reminder**  
- Dr. Mike Waldvogel, Chairman, N.C. Structural Pest Control Committee
2. **Consider Minutes of the June 20, 2014 Meeting**
3. **Evaluation of Statement of Economic Interest for:**  
**Durwood Laughinghouse**
4. **Hearing Involving SPW13-7 James Bell, II Licensee, MZ Bugs Termite Control, LLC**
5. **List of Ancillary duties for Consideration Pursuant to NC General Assembly Session Law 2014-100 Senate Bill 744**  
- John Dalley
6. **Request for the Committee for Rule amend 02 NCAC 34.0309 to change the annual expiration of SPC Certification period from June 30<sup>th</sup> to April 1st.**  
-John Dalley
7. **Consider Settlement Agreements N.C. Department of Agriculture and Consumer Services, Structural Pest Control and Pesticide Division, vs.**  
**SPW14-13 Christopher G. Cramer**  
**SPW14-17 George L. Bryce**
8. **Miscellaneous Information:**  
License Applicants Approved by Division  
Recertification Courses Approved by Division  
Correspondence





STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-13

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )  
Complainant, )  
v. )  
CHRISTOPHER G. CRAMER, )  
Respondent. )

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Christopher G. Cramer, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1601PW which was registered to his business address at Cramer Pest Control, 11724 Downs Road, Pineville, Mecklenburg County, North Carolina.
2. On August 8, 2014, Complainant's Field Inspector performed a routine inspection of Cramer Pest Control, 11724 Downs Road in Pineville, North Carolina.
3. During the inspection, Complainant's Field Inspector discovered evidence that the Respondent allowed his liability insurance to lapse and continued to do business.
4. Complainant's Field Inspector determined the Respondent allowed his liability insurance to expire on June 30, 2014. The Respondent renewed his liability insurance effective August 6, 2014.
5. During the lapse in insurance coverage, Cramer Pest Control performed six household pest control services and fifteen wood destroying organism services, billing a total amount of \$2,927.50

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

#### 02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

- (3) expiration of the policy.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

#### N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

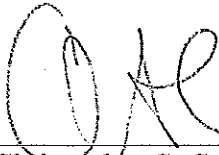
8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand two hundred dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand two hundred dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand two hundred dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

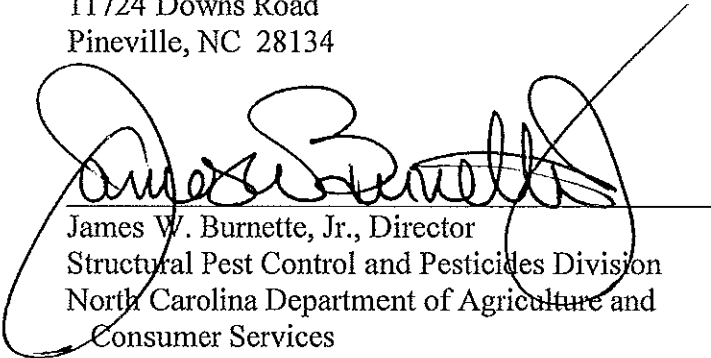
BY CONSENT:



Christopher G. Cramer  
Cramer Pest Control  
11724 Downs Road  
Pineville, NC 28134

2-5-15

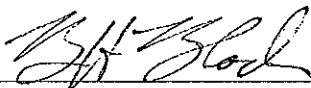
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

February 20, 2015

Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

FEBR 16, 2015

Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

GEORGE L. BRYCE,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW14-17

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and George L. Bryce, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1829PW which was registered to his business address at Crown Pest Control, 6824 Loblolly Circle, Waxhaw, North Carolina.
2. On August 26, 2014, Complainant's Field Inspector performed a routine inspection of Crown Pest Control, 6824 Loblolly Circle, Waxhaw, North Carolina.
3. During the inspection Complainant's Field Inspector observed two garbage bags containing five inch wood pieces cut to form an octagonal stake with a roof tack partially embedded in one end. The sticks appeared similar to the wood monitor stakes used in the First Line Termite Bait systems.
4. When asked where the stakes were used, Kyle Harvey, a registered technician employed by Crown Pest Control, said the Devonshire Condo Complex, Charlotte, Mecklenburg County, North Carolina.
5. Complainant's Field Inspector then obtained the records for the Devonshire Condo Complex account from Camille Williams, the office manager. The file contained foundation diagrams for the nine buildings on the property and two monitoring records. A contract was not

included. Crown Pest Control obtained the account on January 1, 2001. The last bait station inspection was made on August 18, 2014.

6. Complainant's Field Inspector went to the Devonshire Condo Complex and observed many Advance Termite Bait System Stations in unsatisfactory condition.

7. Complainant's Field Inspector noted the following:

- a) Several monitoring stations contained the wood stakes observed at Crown Pest Control; debris in the bottom the stations prevented the stakes from fitting within the stations.
- b) Lids on many of the monitoring stations had broken tabs with the stakes protruding above the stations.
- c) Many of the bait cartridges were significantly consumed or missing.
- d) Several monitoring stations extended one to four inches above the soil with unsecured or missing lids.
- e) Monitoring station placement exceeded 20 feet.

8. The registered label for the Advance Termite Bait System contains the following language:

**STATION PREPARATION AND LOCATION SELECTION**

Install stations around a structure such that, except where sufficient access to the ground is not available, the maximum interval between any two stations does not exceed 20 ft.

9. Complainant's Field Inspector met with the Respondent at Crown Pest Control. The Respondent stated that he had made the wood stakes as a matter of convenience, because replacing one part was easier than replacing two parts. (The Advance Termite Bait System Stations contain two cellulose parts: a wood base and a replaceable Termite Inspection Cartridge.)

10. Complainant's Field Inspector also interviewed Mr. Harvey. Mr. Harvey stated that he inspected the bait stations at the Devonshire Condo Complex. He said he had received little training with termite baiting systems and only saw a label about a year ago when they had to replace some of the stations. He further stated that that Mr. Bryce used the homemade stakes because of the cost for the components.

11. Complainant's Western Field Manager Field performed a follow-up inspection at the Devonshire Condo Complex and determined Mr. Bryce had made all the necessary corrections.

12. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.
- (9) Using any pesticide in a manner inconsistent with its labeling.

#### 02 N.C. Admin. Code 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 N.C. Admin. Code 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticides(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

#### 02 N.C. Admin. Code 34 .0601 AGREEMENTS

(a) Before any treatment is started, the licensee or his authorized agent shall execute, and furnish to the property owner or his authorized agent, a written proposal informing the property owner or his authorized agent, as to the type and quality of work that is to be performed. The written proposal shall contain that information specified in 02 NCAC 34 .0605 and, upon written acceptance by the property owner or authorized agent, shall suffice as the written agreement, required by Paragraph (b) of this Rule.

#### 02 NCAC 34 .0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable) for the control or prevention of any wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement.

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator, or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in 02 NCAC 34 .0328.

13. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

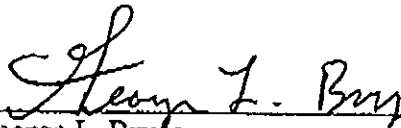
14. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of one thousand six hundred dollars (\$1,600.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand six hundred dollars (\$1,600.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand six hundred dollars (\$1,600.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 14(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 14(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.



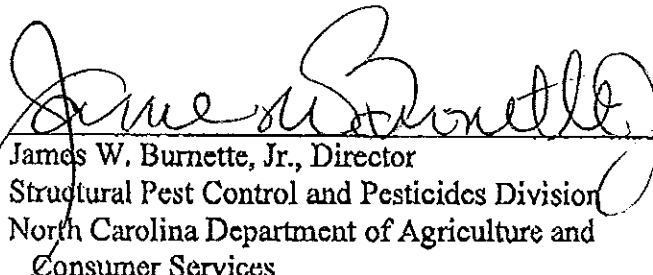
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:




George L. Bryce  
Crown Pest Control  
6824 Loblolly Circle  
Waxhaw, NC 28173

1/19/15  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

3/2/2015  
Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

3/2/2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_

Chairman



**N.C. STRUCTURAL PEST CONTROL COMMITTEE**

1090 Mail Service Center  
Raleigh, NC 27699-1090  
(919) 733-6100

**Revised**  
**MEETING AGENDA**

**July 21, 2015**  
**9:00 a.m.**

**DONALD W. EADDY AGRONOMIC BUILDING**  
**4300 REEDY CREEK ROAD**  
**RALEIGH, NC 27607**

**MANDATORY ETHICS INQUIRY** - North Carolina General Statute 138A-15(e) mandates that the Committee Chair shall remind all Committee Members, of their duty to avoid conflicts of interest and appearances of conflict under this Chapter, and that the chair also inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any agenda item coming before the Committee at this time. It is the duty of each Member who is aware of such personal conflict of interest or of an appearance of a conflict, to notify the Chair of the same, and to refrain from inappropriate participation on that agenda item.

**1. Ethics Reminder**

- Dr. Mike Waldvogel, Chairman, N.C. Structural Pest Control Committee

**2. Consider Minutes of the May 19, 2015 Meeting (Tab #1)**

**3. Request for the Committee to consider amendment of 02 NCAC 34.0502 to address termiticide with new methodology/technology. - John Dalley**

**4. Termiticide Label and Efficacy Data Review Team. - John Dalley**

**5. Request for the Committee to consider amendment of Structural Pest Control Rules:**

a. 02 NCAC 34.0102, to include definition of a "Dye or Marker".

b. 02 NCAC 34. 0328 and 02 NCAC 34. 0703 to require Licensee or an employee to be present for inspection of record and/or equipment at their office location. - John Dalley

**6. Consider Settlement Agreements N.C. Department of Agriculture and Consumer Services, Structural Pest Control and Pesticide Division. (Tab #2)**

**SPE14-6      Larry K. Benton**

**SPW14-16    Josh Frank**

**SPE13-7      James W. Bell, II**

**7. Miscellaneous Information: (Tab #3)**

License Applicants Approved by Division

Recertification Courses Approved by Division

Correspondence

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

JAMES W. BELL, II,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE13-7

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and James W. Bell, II, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1676W which is currently registered to his business address at MZ Bugs Termite Control, LLC, 638 Spartanburg Highway, Suite 70, No. 4, Hendersonville, North Carolina.
2. A resident of the Village at Mayfaire in Wilmington, New Hanover County, North Carolina, told a pest control company that he was concerned about the pest control company that was performing a termite treatment to his property.
3. On February 28, 2013, Complainant's Field Inspector went to the Village at Mayfaire and observed a service vehicle identified as B & B Industrial Termite Control.
4. Complainant's Field Inspector introduced himself to the driver, David Allen Bell. David Bell gave Complainant's Field Inspector a business card for MZ Bugs Termite Control, Kingsport, Tennessee. David Bell did not have a CA or RT card.
5. David Bell stated that MZ Bugs Termite Control provided the preconstruction treatment at the Village at Mayfaire. He said he was treating Building 648 Unit 102 after termites had swarmed.
6. David Bell further stated that his family owned B & B Industrial Termite Control and MZ Bugs Termite Control. He said he was certified under Larry Bell's Structural Pest Control License No. 1768W which was registered to B & B Industrial Termite Control. Review of the

Section's licensing records showed that Larry Bell's license had lapsed on July 1, 2012. David Bell's certification, CA1768W, was, therefore, also inactive. David Bell did not have a CA or RT card under MZ Bugs Termite Control.

7. Complainant's Field Inspector observed David Bell dig a shallow trench along the back of Building 648 Unit 102. When asked about rodding into the trench, David Bell replied he did not have a rod.

8. David Bell told Complainant's Field Inspector that he was applying fifty gallons of Premise Pro to the soil. Complainant's Field Inspector observed David Bell apply the Premise Pro solution to the upper two feet of the foundation wall allowing the chemical to run down into the trench. David Bell was standing six feet from the foundation while power washing the foundation wall with the Premise Pro solution. The Premise Pro solution splashed onto plants, down spouts, drain tiles and a gas line.

9. Complainant's Field Inspector told David Bell that the pressure was too high. David Bell tried to lower the pressure but the pressure gauge was broken. David Bell applied fifty gallons of the Premise Pro solution in four minutes and twenty-five seconds. He did not mix the Premise Pro solution into the soil before or after the treatment and covered the trench with untreated soil. He failed to check for leaks inside the structure.

10. The registered label for Premise Pro contains the following language:

Apply only to soil or other fill substrate that will accept the solution at the specified rate.

Use a low pressure spray (not to exceed 25 PSI at the treatment tool when the valve is open) to treat soil which will be placed in the trench after rodding. Mix the spray solution with soil as it is being placed in the trench.

After application, the applicator is required to check for leaks.

11. Complainant's Field Inspector inspected David Bell's vehicle and determined the following:

- Insufficient spill control clean up material on the vehicle.
- Unlabeled tank on the vehicle.
- Improperly identified vehicle.
- Nonfunctional pressure gauge on vehicle.

12. Complainant's Field Inspector requested copies of contracts, graphs, treatment records and final treatment records for the Village at Mayfaire from MZ Bugs Termite Control. These records are maintained at the Resident Agent's address in Hendersonville, North Carolina.

13. On March 1, 2013, Complainant's Field Inspector again requested records from MZ Bugs Termite Control.

14. On May 1, 2013, Complainant's Eastern Field Manager contacted the Respondent and arranged to meet with him on May 8, 2013 at 9:30 a.m. at the Resident Agent's address, a UPS box store at 172 Highlands Square Drive in Hendersonville, North Carolina.

15. On May 7, 2013, the Respondent contacted the Complainant's Western Field Manager to change the meeting time to 10:30 a.m.

16. On May 8, 2013, David Bell contacted Complainant's Western Field Manager to let him and Complainant's Eastern Field Manager know that the Respondent was having car trouble.

17. When Complainant's Eastern Field Manager contacted the Respondent, the Respondent stated that his car broke down in Asheville, North Carolina, and he could not make it to Hendersonville, North Carolina. He would call Complainant's Eastern Field Manager to arrange a time to meet.

18. On May 21, 2013, Complainant's Eastern Field Manager contacted the Respondent to request a meeting with him the following week. The Respondent stated that he would be on vacation for six weeks and would contact Complainant's Eastern Field Manager when he returned. He said the warranty at the Village at Mayfaire expired after five years and he sent his nephew to treat the building "out of the goodness of his heart."

19. On March 14, 2014, Complainant's Field Inspector left a voice mail message for the Respondent to arrange a meeting.

20. On March 19, 2014, Larry Bell contacted Complainant's Field Inspector. Larry Bell stated that his father was in Florida until April. Complainant's Field Inspector requested a meeting with Larry Bell on March 26, 2014. Complainant's Field Inspector also requested that Larry Bell bring all documentation for the Village at Mayfaire.

21. On March 24, 2014, Larry Bell contacted Complainant's Field Inspector and stated that he was unable to meet with him and Western Field Manager Reid on March 26, 2014.

22. Later that same day, Complainant's Deputy Director contacted Larry Bell. Larry Bell stated that the contract and treatment records for the Village at Mayfaire were at the Resident Agent's office located at 638 Spartanburg Highway, Suite 70, No. 4, in Hendersonville, North Carolina.

23. Complainant's Field Inspector went to the Resident Agent's address and obtained all the records on March 24, 2014.

24. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.
- (2) Failure of the licensee or certified applicator to give the Committee, the Commissioner, or their authorized representatives, upon request, true information regarding methods and materials used, or work performed.
- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.
- (5) Willful violation of any rule or regulation adopted pursuant to this Article.
- (9) Using any pesticide in a manner inconsistent with its labeling.
- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

N.C. Gen. Stat. § 106-65.30. Inspectors; inspections and reports of violations; designation of resident agent.

(b) Prior to the issuance or renewal of a license or certified applicator's identification card, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the Commissioner or his authorized agent a resident agent upon whom service of notice or process may be made to enforce the provisions of this Article and rules and regulations adopted pursuant to the provisions hereof or any civil or criminal liabilities arising hereunder.

#### 02 N.C. Admin. Code 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

#### 02 N.C. Admin. Code 34 .0405 FOLLOWING PESTICIDE LABEL

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

#### 02 N.C. Admin. Code 34 .0406 SPILL CONTROL

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

02 N.C. Admin. Code 34 .0601 AGREEMENTS

(a) Before any treatment is started, the licensee or his authorized agent shall execute, and furnish to the property owner or his authorized agent, a written proposal informing the property owner or his authorized agent, as to the type and quality of work that is to be performed. The written proposal shall contain that information specified in 02 NCAC 34 .0605 and, upon written acceptance by the property owner or authorized agent, shall suffice as the written agreement, required by Paragraph (b) of this Rule.

02 N.C. Admin. Code 34 .0904 PROHIBITED ACTS

(i) No certified applicator or licensee or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate; provided, however, when there is a sale of a business or other name change the company may use both names together for a period not to exceed three years from the date of the name change or sale of business.

25. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

26. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

(a) That the Committee hereby orders that Respondent's Structural Pest Control License Number 1676W, be suspended. Said suspension is hereby stayed until either:

i) the Complainant issues a Structural Pest Control License to Larry Bell or another employee or corporate officer of MZ Bugs Termite Control, LLC; or

ii) sixty days from the effective date of this Settlement Agreement,

which ever occurs first. The term of suspension is two years from the date the Committee approves this Settlement Agreement;

(b) That Respondent shall pay the sum of two thousand dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

(c) That Respondent agrees that if Respondent fails to pay the agreed upon sum of two thousand dollars (\$2,000.00) within thirty (30) days of the Committee's

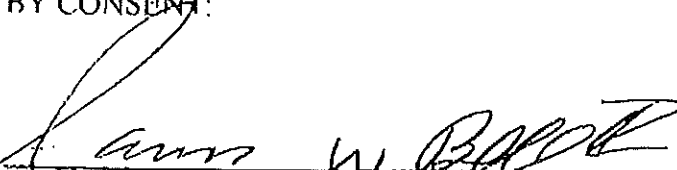


approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of two thousand dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

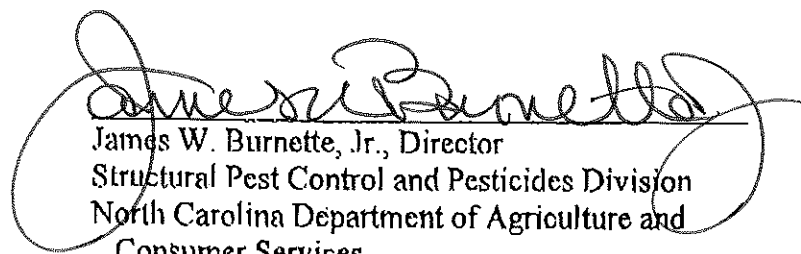
- (d) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 26(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 26(b) of this Agreement. Respondent further agrees that he waives any right to a review of this matter as may be established under Art. 4A of the North Carolina Administrative Procedure Act, Ch. 150B, N.C. General Statutes;
- (e) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (f) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

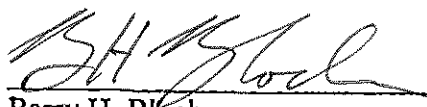
BY CONSENT:

  
James W. Bell, II  
MZ Bugs Termite Control, LLC  
638 Spartanburg Highway  
Suite 70, No. 4  
Hendersonville, NC 28792

7-15-15  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

7/16/2015  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

7/16/2015  
Date

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE14-6

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )  
Complainant, )  
v. )  
LARRY K. BENTON, )  
Respondent. )

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Larry K. Benton, hereinafter referred to as Respondent.

1. Respondent had held Structural Pest Control License No. 660PW which was registered to his business address at Wheeler Exterminating Company, Inc., 204 East King Street, Kinston, Lenoir County, North Carolina, but this license had lapsed on July 1, 2014.
2. On August 13, 2014, Complainant's Field Inspector performed a routine inspection of Wheeler Exterminating Company, Inc., 204 East King Street in Kinston, North Carolina.
3. The Structural Pest Control Section's records reflect that the Respondent failed to renew his license and registered technician identification cards that expired on June 30, 2014.
4. During the inspection, Complainant's Field Inspector determined that Wheeler Exterminating Company mailed the renewal forms and fees to the Structural Pest Control Section on August 6, 2014.
5. Wheeler Exterminating Company performed 759 pest control treatments and 14 wood destroying organism treatments while no one was licensed to perform structural pest control services.

6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

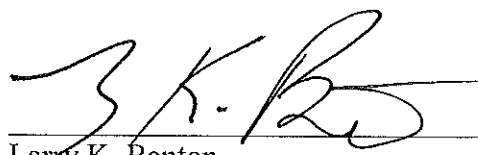
- (a) That Respondent shall pay the sum of twelve hundred dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand two hundred dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand two hundred dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest

Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

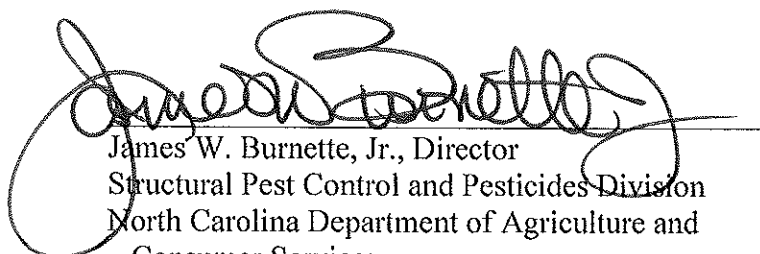
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

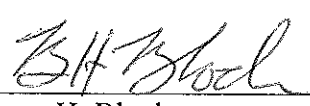
BY CONSENT:

  
\_\_\_\_\_  
Larry K. Benton  
Wheeler Exterminating Company, Inc.  
204 East King Street  
Kinston, NC 28501

5-12-2015  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

6/2/2015  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

5/19/2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-16

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

ALL STAR CLEANING AND )  
RESTORATION SERVICES, LLC, )

Respondent.

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and All Star Cleaning and Restoration Services, LLC, hereinafter referred to as Respondent.

1. Respondent All Star Cleaning and Restoration Services, LLC, 2030 Sierra Trace Road, Denton, North Carolina, is a corporation incorporated and existing under the laws of the State of North Carolina.
2. Josh Frank is the manager of All Star Cleaning and Restoration Services, LLC.
3. On August 1, 2014, the Structural Pest Control Section received information alleging that All Star Cleaning and Restoration Services, LLC, is performing bed bug dog detection inspections and heat treatments without a structural pest control license.
4. On August 4, 2014, Complainant's Field Inspector contacted Mr. Frank. Mr. Frank stated that he was unaware that a structural pest control license was required to perform inspections and heat treatments.
5. On August 5, 2014, the Structural Pest Control Section issued All Star Cleaning and Restoration Services, LLC, a Cease and Desist Order.
6. On August 12, 2014, Complainant's Western District Supervisor and Field Inspector met with Mr. Frank and Joey Silver, a member of All Star Cleaning and Restoration Services, LLC.

7. Mr. Frank and Mr. Silver stated that they had performed four bed bug inspections and heat treatments. Three heat treatments were performed for family members; the fourth for Martha Moore, a restoration customer.

8. Mr. Frank provided a copy of Ms. Moore's invoice for bed bug detection and heat treatment dated June 17, 2014, for \$800.00.

9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

(a) That Respondent shall pay the sum of one thousand two hundred dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

(b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand two hundred dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand two hundred dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest

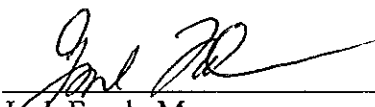


Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

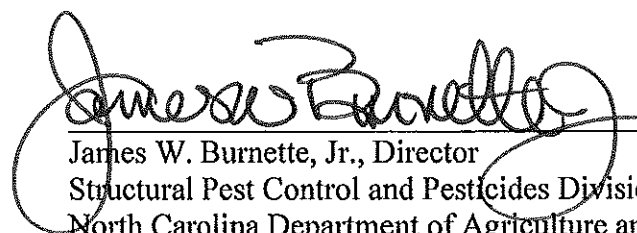
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
Josh Frank, Manager  
All Star Cleaning and Restoration Services, LLC  
2030 Sierra Trace Road  
Denton, NC 27239

5-12-15  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

6/2/2015  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

5/19/2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

DAVID M. BAKER, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File Nos. SPE14-3 and SPE14-4

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41© which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and David M. Baker, hereinafter referred to as Respondent.

SPE14-3

1. At all times pertinent to this matters, Respondent held Structural Pest Control License Number 1047PW which was registered to his business address at Baker's Bug Business, 950 Main Street, Fair Bluff, North Carolina.
2. On June 2, 2014, Complainant's Field Inspector performed a request inspection at the Columbus County Detention Center, 805 Washington Street, Whiteville, Columbus County, North Carolina. On May 31, 2014, Christie Hudson contacted the Structural Pest Control and Pesticides Division regarding pesticide applications within prison cells while inmates were present. Ms. Hudson's son, Tommy Benton, is an inmate in the Columbus County Detention Center.
3. Complainant's Field Inspector met with Roy Hatcher, the maintenance supervisor at the Columbus County Detention Center. Mr. Hatcher stated that the center contracts with Baker's Bug Business for pest control services.
4. In his statement to Mr. Hatcher, Mr. Benton stated that he observed the "bug man" spray pesticides in his cell with a silver canister and that he sprayed 1-2 feet from the floor up the wall along the entire perimeter of the cell. He said the "bug man" also sprayed near the head of his

cellmate and that some of the other inmates asked the guards to let them out of the room due to the strong odor of the pesticide.

5. Complainant's Field Inspector also met with the Respondent at the Columbus Detention Center. The Respondent stated that on May 30, 2014, he applied Demand CS as a spot treatment (less than 12 inches in length) to the corners of Mr. Benton's cell and under the bed and commode. He said that when inmates refuse to leave their cells he has treated the cells when occupied.

6. Subsequently, Respondent revised his operation protocol for pest control at the Columbus Co. Detention Center to make sure all inmates are removed from areas to be treated, prior to the treatment, and remain out of said areas until it is safe to re-enter them. A copy of Respondent's operation protocol is attached for informational purposes.

7. The registered label for Demand CS contains the following language:

Do not apply to institutions (including libraries, sports facilities, etc.) in the immediate area when occupants are present.

8. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

§ 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(5) Willful violation of any rule or regulation adopted pursuant to this Article.

(9) Using any pesticide in a manner inconsistent with its labeling.

02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

9. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

SPE14-4

10. On July 7, 2014, Complainant's Field Inspector performed a request inspection for Kem Dudney, 462 Waccamaw Shores Road, Lake Waccamaw, North Carolina.

11. Ms. Dudney requested assistance in obtaining records from Baker's Bug Business, 950 Main Street, Fair Bluff, North Carolina. Ms. Dudney maintained a termite retreatment contract with Baker's Bug Business from December 13, 2007, through December 12, 2013. Due to moisture and termite damage, Ms. Dudney has made repairs to her home. Ms. Dudney is disputing the quality of the termite control and the cost of repairs with the Respondent.

12. During the inspection of Ms. Dudney's home, Complainant's Field Inspector noted the following:

- a) termite and wood decay fungus evidence in the crawlspace;
- b) wooden members that had been repaired or replaced;
- c) four Advance Termite Bait Stations around the exterior of the home; and
- d) the home had recently been drilled/treated by the current pest control company.

13. Complainant's Field Inspector met with the Respondent to review his records. The records showed that the Respondent failed to make and maintain records for a termite treatment, bait stations, and annual inspections.

14. None of the annual inspection records disclosed evidence of wood destroying organisms or wood decay fungus.

15. Complainant's Field Inspector also determined that the Respondent failed to inspect and monitor the Advance Bait Stations according to label directions.

16. The Advance Termite Bait System label states the following:

If termite activity is known to be present in or on the structure at the time stations are initially installed, inspect all stations 2 times at approximately 45 and 90 days after the date of completion of initial station installation. If no termite activity is present in or on the structure at the time stations are initially installed, inspect all stations for the first time approximately 90 days after the date of completion of initial station installation. Thereafter, inspect stations approximately 90 days after the date of the last inspection of the stations.

17. The Respondent stated that his insurance company offered Ms. Dudney \$5,000.00 for damages.

18. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (5) Willful violation of any rule or regulation adopted pursuant to this Article.
- (9) Using any pesticide in manner inconsistent with its labeling.

#### 02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

#### 02 NCAC 34 .0604 WOOD-DESTROYING ORGANISMS RECORDS

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator, or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in 02 NCAC 34 .0328.

18. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

19. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

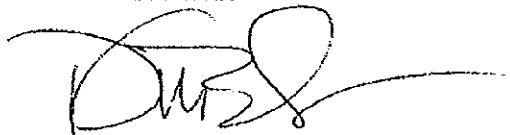
- (a) That Respondent shall pay the sum of one thousand five hundred dollars (\$1,500.00) to the North Carolina Department of Agriculture and Consumer Services. Respondent shall pay said sum in five (5) monthly installments of three hundred dollars (\$300.00) per month. Respondent's first monthly payment shall be due on the first day of the month falling within thirty (30) days of the Committee's approval of this Agreement; each of the remaining four payments shall be due on the first of the following months;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand five hundred dollars (\$1,500.00) according to the terms set forth above in subparagraph 19.(a), this Agreement shall constitute a civil penalty

assessment of the Committee of one thousand five hundred dollars (\$1,500.00) for violations of the above-stated North Carolina Structural Pest Control Act and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 19(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 19(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (f) That Respondent denies he is guilty of any willful violation of the North Carolina Structural Pest Control Act or regulations adopted thereunder and his consent to the terms of this Agreement is made in order to timely resolve this matter and shall not be constituted as an admission of guilt, as to any of the violations alleged herein;

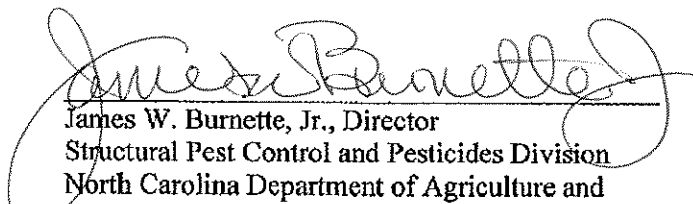
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



David M. Baker  
Baker's Bug Business  
950 Main Street  
Fair Bluff, NC 28439

03/17/15  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

March 17, 2015  
Date

Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

BRYAN C. HEATH, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL

COMMITTEE

File No. SPE14-5

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Bryan C. Heath, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1136PW which was registered to his business address at Heath Pest Control, 3915 Welch Street, Suite 102, Kitty Hawk, Dare County, North Carolina.
2. JMI & Associates Insurance Services notified the Structural Pest Control and Pesticides Division that Heath Pest Control's insurance was cancelled on January 25, 2014, for nonpayment of premium.
3. Heath Pest Control obtained insurance from SIA Group effective March 6, 2014.
4. On April 4, 2014, Complainant's Field Inspector performed a records inspection at Heath Pest Control. During the inspection, Complainant's Field Inspector reviewed invoices and determined that during the lapse in insurance coverage, Heath Pest Control performed 165 pest control treatments and 2 termite pretreatments.
5. From February 3, 2014, through February 7, 2014, and March 1, 2014, through March 4, 2014, Heath Pest Control billed 5,800.00.

6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

#### 02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

(3) expiration of the policy.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of eight hundred dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of eight hundred dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of eight hundred dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

\_\_\_\_\_  
Bryan C. Heath  
Heath Pest Control, Inc.  
3915 Welch Street, Suite 102  
Kity Hawk, NC 27949

\_\_\_\_\_  
Date

\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

\_\_\_\_\_  
Date

\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

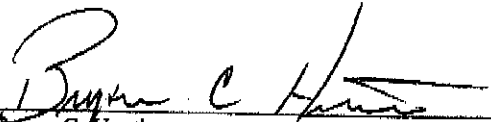
this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

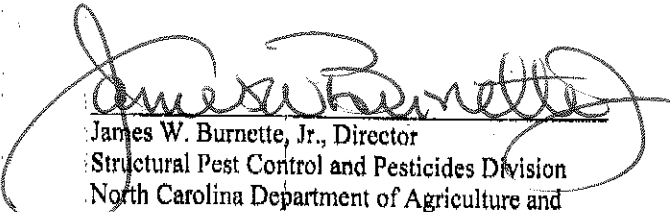
BY: \_\_\_\_\_  
Chairman

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

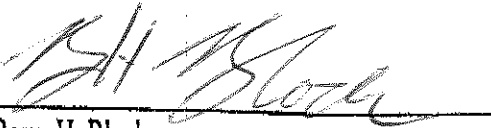
BY CONSENT:

  
Bryan C. Heath  
Heath Pest Control, Inc.  
3915 Welch Street, Suite 102  
Kitty Hawk, NC 27949

5-15-15  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

5/18/2015  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

5/19/2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 19 day of May, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

MARSHALL A. SPEARS, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW14-15

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Marshall A. Spears, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent did not hold a North Carolina Structural Pest Control License.
2. On July 25, 2014, Ken Harris, branch manager for the Orkin office in Arden, North Carolina, contacted Complainant's Field Inspector. Mr. Harris reported that the Respondent, a former employee, was performing structural pest control without a structural pest control license.
3. The Respondent was employed by Orkin from March 24, 2014, to July 1, 2014. The Respondent was previously employed by Clegg's Termite and Pest Control from February 10, 2014, to March 13, 2014.
4. On July 29, 2014, Complainant's Field Inspectors met with the Respondent. The Respondent stated that he left employment with Orkin in July 2014, and started his own business, SMJA Consulting, a handyman service. He said that he had prepared proposals for four jobs and that he had only applied Tilex and Raid Wasp and Hornet spray. He said he had not performed any termite treatments.
5. On August 11, 2014, Complainant's Western District Supervisor and Field Inspector met with Clegg's Termite and Pest Control customers, Don and Francine Costa, 1 Sunset Trail, Asheville, North Carolina.

6. Mrs. Costa stated that on March 7, 2014, the Respondent arrived at their home in a Clegg's Termite and Pest Control vehicle, to perform their annual termite inspection. She said termites had swarmed inside their home and was told by Mr. Spears that their termite control contract with Clegg's Termite and Pest Control was null and void because they did not have gutters on their home. He proposed to do the termite work on his own for \$1,000.00.

7. On March 15, 2014, the Respondent arrived at the Costa's home in his personal vehicle to perform a spot treatment in their basement. He drilled and treated some floor joists and wall studs with Premise Foam.

8. Clegg's Termite and Pest Control informed Mrs. Costa that their termite control contract was not cancelled.

9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

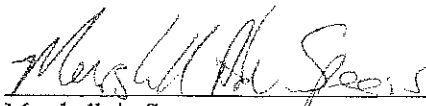
(a) That Respondent shall pay the sum of one thousand five hundred dollars (\$1,500.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of one thousand five hundred dollars (\$1,500.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of one thousand five hundred dollars (\$1,500.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

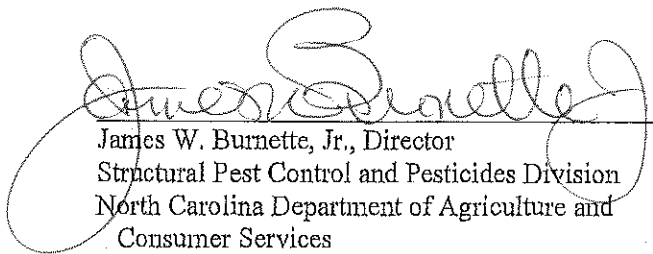


WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

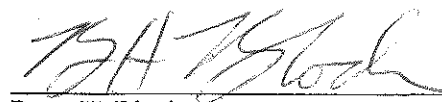
BY CONSENT:

  
\_\_\_\_\_  
Marshall A. Spears  
4032 Dutch Cove Road  
Canton, NC 28716

3/16/15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

3/17/2015  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

17 March 2015  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 17 day of March, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
\_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

RICHARD D. SIMMONS,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2015-1

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Richard D. Simmons, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1467W which was registered to the business address at House Master, 7150 Forest Ridge Road, Matthews, North Carolina 28104.
2. On November 21, 2014, Complainant's Field Inspector responded to a request for inspection by Sara Rich, concerning her property located at 1451 Beth Haven Church Road, Denver, North Carolina 28037.
3. Ms. Rich said her property had been inspected by two different Pest Control Companies and she received two conflicting reports.
4. During the course of the inspection, Complainant's Field Inspector determined that the Respondent's registered technician, Harold "Butch" Upton, had issued a Wood-Destroying Insect Information Report for Ms. Rich's property on November 20, 2014.
5. Respondent's Registered Technician issued an accurate inspection report. However the form used to complete the report (Form 100) had been altered. Under the section entitled: CONDITIONS GOVERNING THIS REPORT, House Master added three additional paragraphs to the existing five paragraph form. Paragraphs six and seven are a reiteration of paragraphs one, two, and three. Paragraph eight addresses the nature of powder post beetle infestations.

6. The Structural Pest Control and Pesticides Division Wood- Destroying Insect Information "Enforcement Policy," prohibits the alteration of Form 100 in any way.

7. Complainant's Inspector reviewed Respondent's previous file with the Structural Pest Control and Pesticides Division and determined that House Master was previously issued a Notice of Warning Letter dated March 18, 2014 for this same violation, under referenced number SPW14-3, which clearly states the WDIR Enforcement Policy, in pertinent part:

*The WDIR 100, as revised effective July 1, 1992, is the only form that may be used to report the presence or absence of wood-destroying insects or their damage in a structure that is for sale. Although the form no longer requires the reporting of damage, if damage is to be reported, it must be reported on this form. The form may not be altered in any way. This includes the addition of an arbitration clause, the use of the form as a proposal, etc.*

8. Mr. Upton told Complainant's Inspector that his IT person was in the hospital when the first incident occurred and he failed to follow up to have his branch office's (digital copy) corrected.

9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

02 NCAC 34 .0325

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

N.C. Gen. Stat. § 106-65.25.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(5) Willful violation of any rule or regulation adopted pursuant to this Article.

10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

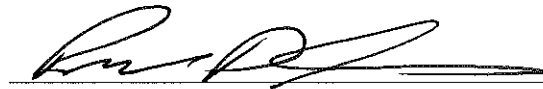
A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Seven Hundred Dollars (\$700.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Seven Hundred Dollars (\$700.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Seven Hundred Dollars (\$700.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

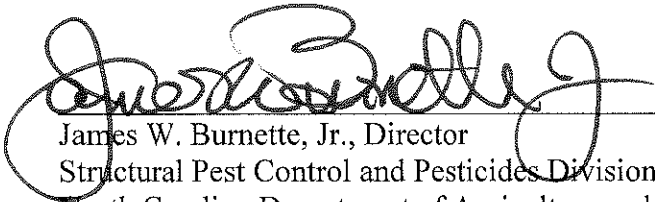
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



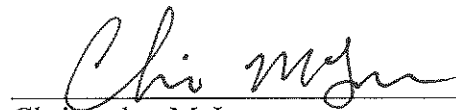
Richard D. Simmons  
House Master  
7150 Forest Ridge Road  
Matthews, North Carolina 28104

11-30-15  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

12/8/2015  
Date



Christopher McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

12/8/15  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW2015-2

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

ROBBY DEE COOKE,

Respondent.

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Robby Dee Cooke, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent Robby Dee Cooke was an employee of Aberdeen Exterminating, working under the Structural Pest Control License Number, of James Parker, Jr., no. 277PW. Aberdeen Exterminating is located at 124 North Poplar Street, Aberdeen, North Carolina 28315.
2. On January 14, 2015, the Structural Pest Control Section received an email from the Pesticides Section regarding an investigation it performed on August 6, 2014.
3. The complaint was made by Mrs. Amy Rozycki, residing at 120 Cardinal Lane, Seven Lakes, North Carolina, regarding a mosquito control application to her neighbor's property that was mistakenly applied to her yard and grapevines.
4. During the investigation, Mrs. Rozycki reported that, at the time of the application, she was on her sun deck when she noticed Respondent spraying on the property line between her home and her neighbor's home.

5. Mrs. Rozycki reported that she proceeded to stop Respondent from spraying onto her property, but by the time she reached Respondent and had his attention, he had already sprayed her grapevines. She then requested that he not spray towards her yard and, according to Ms. Rozycki, the Respondent gave her the ok sign with his hand and kept his back to her property for the remainder of the application.

6. Based on this complaint, Complainant's Inspector made an appointment the following day to speak with James A. Parker, Jr. (License #277PW), owner of Aberdeen Exterminating and Respondent.

7. Respondent said that he sprayed Mrs. Rozycki's neighbor's property at 122 Cardinal Lane in Seven Lakes. He stated that he was unaware of any grapes that he had sprayed. He confirmed that he was spraying the perimeter of the property at 122 Cardinal Lane when Mrs. Rozycki came out and asked him to stop spraying toward her property. He confirmed that he gave her the ok sign with his hand and turned his back to her property to finish the application.

8. James Parker, Jr., stated that he had spoken with Mrs. Rozycki about the incident. She requested the labels of all the pesticides used at the property. She also asked if they could contact her before the next application so that she could cover her plants. Mr. Parker said that he made a note on her neighbor's contract to contact Mrs. Rozycki a day prior to any further applications.

9. Two samples were taken from Mrs. Rozycki's vegetation and grapes and sent to Complainant's lab in Raleigh. Both sample results indicated the presence of Lambda-Cyhalothrin (1.9 ppm-0.76 ppm), the active ingredient in Lambda Star 9.7% CS and Bifenthrin (1.1 ppm- 0.58 ppm), the active ingredient in Bifen I /T. Respondent had applied both of these pesticides at 122 Cardinal Lane on August 6, 2014.

The label for Lambda Star 9.7% CS states:

*Do not apply this product to edible growing crops or stored raw agricultural commodities used for food or feed.*

The Bifen I/T label states:

*For use on plants intended only for aesthetic purposes or climatic modifications and being grown in interior landscapes, ornamental gardens or parks, or lawns or grounds. Do not apply to pets, crops, or sources of electricity.*

10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

§ 106-65.28. Revocation or suspension of license or identification card.

- (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (9) Using any pesticide in a manner inconsistent with its labeling.

02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

- (a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.
- (b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

02 NCAC 34 .0904 PROHIBITED ACTS

- (m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

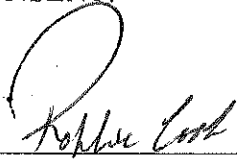
- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(b) of this Agreement;



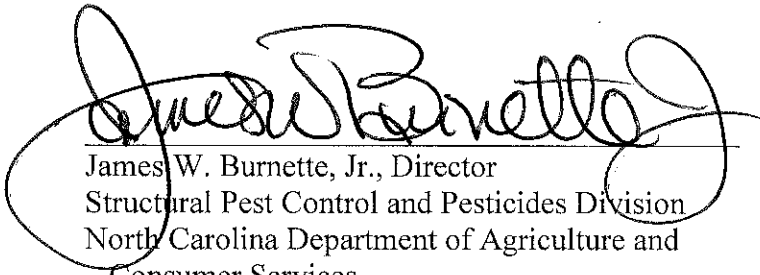
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

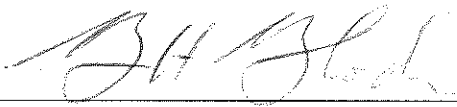
BY CONSENT:

  
\_\_\_\_\_  
Mr. Robby Dee Cooke  
c/o Aberdeen Exterminating  
124 North Poplar Street  
Aberdeen, North Carolina 28315

10-30-15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/10/2015  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

13 NOV 2015  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW2015-2

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

JAMES A. PARKER, JR.,

Respondent.

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and James A. Parker, Jr., hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent James. A. Parker, Jr., held Structural Pest Control License Number no. 277PW which was registered to his business address at Aberdeen Exterminating, 124 North Poplar Street, Aberdeen, North Carolina 28315.
2. On January 14, 2015, the Structural Pest Control Section received an email from the Pesticides Section regarding an investigation that had been performed by the Pesticide Section on August 6, 2014.
3. The complaint was made by Mrs. Amy Rozycki, residing at 120 Cardinal Lane, Seven Lakes, North Carolina, regarding a mosquito control application to her neighbor's property that was mistakenly applied to her yard and grapevines.
4. During the investigation, Mrs. Rozycki reported to the Complainant's Inspector that, at the time of the application, she was on her sun deck. She noticed Robby Cooke, an applicator and employee of Respondent Aberdeen Exterminating, spraying on the property line between her home and her neighbor's home.

5. Mrs. Rozycki reported that she went to stop Mr. Cooke from spraying onto her property, but by the time she reached him and had his attention, he had already sprayed her grapevines. She then requested that he not spray towards her yard and, according to Ms. Rozycki, the service technician gave her the ok sign with his hand and kept his back to her property for the remainder of the application.

6. Based on the allegations of Mrs. Rozycki, Complainant's Inspector made an appointment the following day to speak with the Respondent and his employee, Robby Dee Cooke.

7. Mr. Cooke said that he sprayed Mrs. Rozycki's neighbor's property at 122 Cardinal Lane in Seven Lakes. He stated that he was unaware of any grapes that he had sprayed. He confirmed that he was spraying the perimeter of the property at 122 Cardinal Lane when Mrs. Rozycki came out and asked him to stop spraying toward her property. He confirmed that he gave her the ok sign with his hand and turned his back to her property to finish the application.

8. Respondent stated that he had spoken with Mrs. Rozycki about the incident and she requested the labels of all the pesticides used at the property. She also asked if they could contact her before the next application so that she could cover her plants. Respondent said that he made a note on her neighbor's contract to contact Mrs. Rozycki a day prior to any further applications.

9. Two samples were taken from Mrs. Rozycki's vegetation and grapes and sent to the Section's lab in Raleigh. Both sample results indicated the presence of Lambda-Cyhalothrin (1.9 ppm-0.76 ppm), the active ingredient in Lambda Star 9.7% CS and Bifenthrin (1.1 ppm- 0.58 ppm), the active ingredient in Bifen I /T. Both of these pesticides were used during Mr. Cooke's application.

The label for Lambda Star 9.7% CS states:

*Do not apply this product to edible growing crops or stored raw agricultural commodities used for food or feed.*

The Bifen I/T label states:

*For use on plants intended only for aesthetic purposes or climatic modifications and being grown in interior plantscapes, ornamental gardens or parks, or lawns or grounds. Do not apply to pets, crops, or sources of electricity.*

10. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34 .0325 Duty of license holder to control activities.

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

11. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

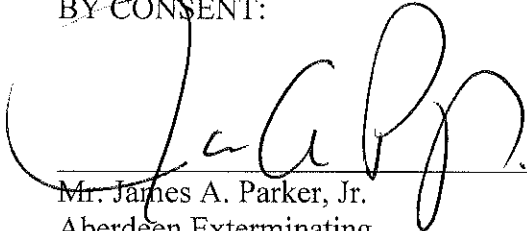
12. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Six Hundred Dollars (\$600.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Six Hundred Dollars (\$600.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Six Hundred Dollars (\$600.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 12(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 12(b) of this Agreement;

- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

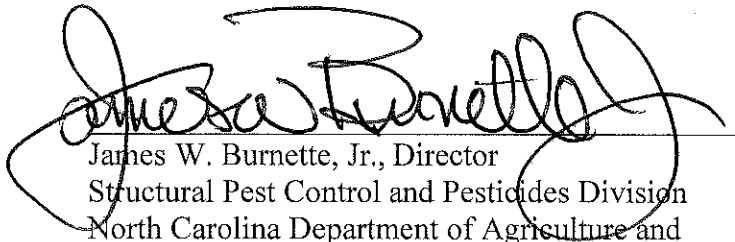
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Mr. James A. Parker, Jr.  
Aberdeen Exterminating  
124 North Poplar Street  
Aberdeen, North Carolina 28315

10/30/15  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/10/2015  
Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

13 NOV 2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

EARL W. SMITH,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2015-7

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Earl W. Smith, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 687PW which was registered to his business address at Ortho's Pest Management, 468 North Fayetteville Street, Asheboro, North Carolina 27203.
2. On February 24, 2015, Mr. and Mrs. Bobby Bailey contacted the Structural Pest Control Section regarding a household pest control treatment performed by Ortho's Pest Management that resulted in damage to their property.
3. On March 4, 2015, Complainant's Inspector John Laughter arrived at the Bailey residence, 1685 Providence Church Road, Pleasant Gardens, NC 27313, to obtain additional information regarding the complaint against Ortho's Pest Management.
4. At that time, Mr. Bailey told Complainant's Inspector that Respondent and Ortho's Pest Management were aware of the damage the treatment caused to their home. Respondent indicated that they were willing to accept responsibility for the repair costs. However, Mr. Bailey expressed concern because, although he was informed the matter had been turned over to the Respondent's insurance company, the Respondent was no longer returning his or Mrs. Bailey's telephone calls.



5. Mr. and Ms. Bailey contracted with Respondent on November 3, 2014, which was also the initial date of treatment. The Bailey residence was retreated on December 9, 2014, and January 2, 2015, for silverfish. Ms. Bailey informed Respondent's employee that she primarily found silverfish in the bathrooms and lighting fixtures of their home.

6. On November 3, 2014, the initial treatment was performed by Respondent's employee, Jeremy Ross, a Certified Applicator. Mr. Ross made spot treatments in the kitchen, bathrooms, living room, dining room, bedrooms and utility room. He used one and a half quarts of Tempo SC at .05% with Prentox ExciteR and one can of Pro-Control Plus, a total release aerosol insecticide, which he released in the attic.

7. On December 9, 2014, Respondent's employee, David Allred, a Certified Applicator, performed a retreatment at the owners' request. Mr. Allred used one quart of Temprid and one can of Pro-Control Plus, a total release aerosol. Mr. Allred stated he did a spot treatment in all the rooms with Temprid and used the Pro-Control Plus in the attic over the garage. However, Mr. Allred failed to record this information on the December 9, 2014, pest control treatment record.

8. On January 2, 2015, Respondent's employee, Jeremy Ross, treated the property again. Respondent's records show he did spot treatments in the kitchen, bathrooms, living room, dining room, bedrooms and laundry room with one quart of Cy-Kick CS at .05% and he released one can of Pro-Control Plus in the kitchen and the master bathroom. Mr. Ross stated he used a B&G airless sprayer on straight stream and performed spot treatments around all the recessed lighting in the ceiling, around the ceiling fans, around the windows and around the baseboards. Spots (appearing to be water spots in the paint) were visible around the recessed lighting, drips/runs are present around the windows, baseboards, registers and threshold trims. Mr. Ross then released one can of Pro-Control Plus (total release fogger), placing it on the kitchen floor, and one can of Pro-Control Plus, placing it on the master bathroom floor.

9. The Inspector noted that the combined treatment area of these two canisters would have easily covered the master bath and bedrooms, the connecting hallway, utility room, kitchen, dining room, living room and the connecting hallway to the remaining two bedrooms and bathroom. Bifen I/T was used as a perimeter treatment on the exterior and as surface spray on the inside foundation walls, pillars and vapor barrier in the crawlspace.

10. Ms. Bailey reported that following the January 2, 2015 treatment, she had to hold her breath to enter the kitchen and set the alarm. Mr. and Mrs. Bailey then left their home for approximately six hours before returning. Upon their return, Mr. and Ms. Bailey detected spotting on pictures, furniture, ceilings, ceiling fans, light fixtures, appliances, baseboards and the trim around windows and doors. Mr. Bailey stated that he smelled pesticide when he reentered his house and turned on the forced air heating/air conditioning to get rid of the smell. Ms. Bailey stated the floor in the kitchen and master bathroom felt oily. She immediately began to clean her pictures, mirrors, furniture, flooring, bedding and appliances.

11. The following day, the Baileys asked the Respondent to inspect the damage to their home. Respondent asked the Baileys to obtain estimates for the damage and his company would be responsible for the repair cost. The estimates obtained by the Baileys' were higher than anticipated and, as a result, Respondent notified his insurance company to address the damages.

12. No swab samples were taken during the inspection, as Ms. Bailey's cleaning efforts were very thorough and the areas left undisturbed would have been damaged further by the use of rubbing alcohol to obtain any samples.

13. The Field Inspector noted that the Pro-Control Plus product used on January 2, 2015 was applied in a manner inconsistent with its label. Under the *DIRECTIONS FOR USE*, the following instructions are found:

1. COVER waxed wood floors, waxed furniture and stereo or other plastic dust covers in the immediate area surrounding the fogger.
3. Place a chair, table or stand in the center of the room to be fogged. Cover with several layers of newspaper, paper towels or plastic tarp. Open and thoroughly ventilate treated areas for at least 30 minutes before reoccupying.
5. Set fogger on covered stand. Immediately leave treated area.
6. Before re-occupying area, open all doors and windows and allow treated area to air for 30 minutes.

14. Respondent's employee, Jeremy Ross, while performing the treatment on January 2, 2015, did not elevate either product, cover any furniture or flooring or clear the area before reentry by the Baileys.

15. On March 5, 2015, Complainant's Inspector contacted Tim Sayers, Customer Service Representative for Whitmire Micro-Gen. According to Mr. Sayer, the damage found on the recessed lighting, plastic light fixtures, end tables, vacuum cleaner, telephone, fire alarms and other plastic items located in the treatment area of the foggers can be attributed to the petroleum distillates used in the Pro-Control Plus. He further stated this was the reason for the covering requirement found on the label. When questioned specifically concerning the metal ceiling fan, it was discussed that there may have been a clear plastic coating over the brass to prevent corrosion which was damaged by the application and resulted in discoloration to the ceiling fan.

16. Complainant's Inspector also noted that the Cy-Kick CS used on January 2, 2015 was applied in a manner inconsistent with its label. Under the *DIRECTIONS FOR USE*, the following instructions are found:

*"Cy-Kick CS, may be used on any surface which will not be damaged or stained by water. Heavy applications may leave a visible deposit. On some surfaces this deposit can be removed with a damp cloth or sponge."*

17. Inspection of the Bailey residence indicated that Cy-Kick CS was used on a surface which was damaged and/or stained by water and/or was not able to be removed with a damp sponge or cloth by Ms. Bailey. The damage on the ceiling around the light fixtures, on the closet and window trim and their adjacent painted walls appeared to be water damage to these surfaces.

18. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.

- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34.0325 Duty of license holder to control activities.

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.
- (e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

02 NCAC 34.0703(A)(3)

Written records "shall include ...the type of treatment(s) performed.

19. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

20. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 20(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 20(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

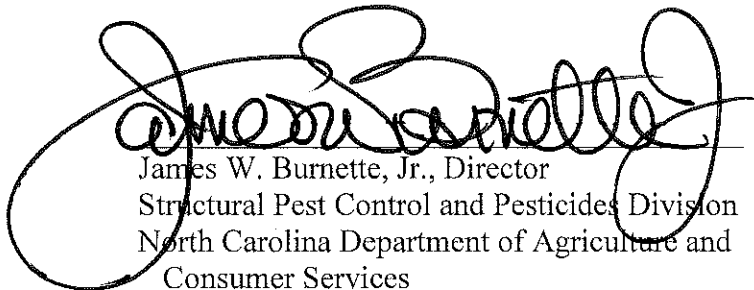
BY CONSENT:



Mr. Earl W. Smith  
Ortho's Pest Management  
468 North Fayetteville Street  
Asheboro, North Carolina 27203

11/10/15

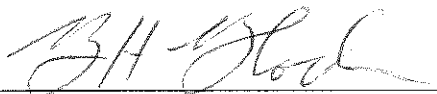
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/12/2015

Date



Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

13 NOV 2015

Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

JEREMY A. ROSS,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2015-7

SETTLEMENT AGREEMENT

---

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jeremy A. Ross, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was a Certified Applicator and employee of Ortho's Pest Management, holding Structural Pest Control License Number 687PW, which is located at 468 North Fayetteville Street, Asheboro, North Carolina 27203.
2. On February 24, 2015, Mr. and Ms. Bobby Bailey contacted the Structural Pest Control Section regarding a household pest control treatment performed by Ortho's Pest Management that resulted in damage to their property.
3. On March 4, 2015, Complainant's Inspector John Laughter arrived at the Bailey residence, located at 1685 Providence Church Road, Pleasant Gardens, NC 27313 to obtain additional information regarding the complaint against Ortho's Pest Management.
4. At that time, Mr. Bailey indicated to Complainant's Inspector that Ortho's Pest Management was aware of the damage the treatment caused to their home and had indicated that it was willing to accept responsibility for the repair costs. However, Mr. Bailey expressed concern because, although he was informed the matter had been turned over to Ortho's Pest Management's insurance company, Ortho's Pest Management was no longer returning his or Ms. Bailey's telephone calls.

5. Mr. and Ms. Bailey contracted with Ortho's Pest Management on November 3, 2014, which was also the initial date of treatment. The Bailey residence was retreated on December 9, 2014 and January 2, 2015 for silverfish. Ms. Bailey informed Ortho's Pest Management's employee that she primarily found silverfish in the bathrooms and lighting fixtures of their home.

6. On November 3, 2014, Respondent made the initial treatment. Spot treatments were done in the kitchen, bathrooms, living room, dining room, bedrooms and utility room with one and a half quarts of Tempo SC at .05% with Prentox ExciteR and one can of Pro-Control Plus, a total release aerosol insecticide, was released in the attic.

7. On December 9, 2014, a retreatment was done at the request of the owners. David Allred, another Certified Applicator employed by Ortho's Pest Management, used one quart of Temprid and one can of Pro-Control Plus, a total release aerosol. Mr. Allred stated he did a spot treatment in all the rooms with Temprid and used the Pro-Control Plus in the attic over the garage. However, Mr. Allred failed to record this information on the December 9, 2014 pest control treatment record.

8. On January 2, 2015, Respondent treated the Bailey property again. Ortho's Pest Management records show he did spot treatments in the kitchen, bathrooms, living room, dining room, bedrooms and laundry room with one quart of Cy-Kick CS at .05% and he released one can of Pro-Control Plus in the kitchen and the master bathroom. Respondent stated he used a B&G airless sprayer on straight stream and performed spot treatments around all the recessed lighting in the ceiling, around the ceiling fans, around the windows and around the baseboards. Spots (appearing to be water spots in the paint) were visible around the recessed lighting, drips/runs are present around the windows, baseboards, registers and threshold trims. Respondent then released one can of Pro-Control Plus (total release fogger), placing it on the kitchen floor, and one can of Pro-Control Plus, placing it on the master bathroom floor.

9. The Inspector noted that the combined treatment area of these two canisters would have easily covered the master bath and bedrooms, the connecting hallway, utility room, kitchen, dining room, living room and the connecting hallway to the remaining two bedrooms and bathroom. Bifen I/T was used as a perimeter treatment on the exterior and as surface spray on the inside foundation walls, pillars and vapor barrier in the crawlspace.

10. Ms. Bailey reported that following the January 2, 2015 treatment, she had to hold her breath to enter the kitchen and set the alarm. Mr. and Mrs. Bailey then left their home for approximately six hours before returning. Upon their return, Mr. and Ms. Bailey detected spotting on pictures, furniture, ceilings, ceiling fans, light fixtures, appliances, baseboards and the trim around windows and doors. Mr. Bailey stated that he smelled pesticide when he reentered his house and turned on the forced air heating/air conditioning to get rid of the smell. Ms. Bailey stated the floor in the kitchen and master bathroom felt oily. She immediately began to clean her pictures, mirrors, furniture, flooring, bedding and appliances.

11. The following day, Earl W. Smith of Ortho's Pest Management was called out to inspect the damage to the Baileys' home. Mr. Smith asked the Baileys to obtain estimates for the damage and his company would be responsible for the repair cost. The estimates obtained by the Baileys' were higher than anticipated and, as a result, Mr. Smith notified his insurance company to address the damages.

12. No swab samples were taken during the inspection, as Ms. Bailey's cleaning efforts were very thorough and the areas left undisturbed would have been damaged further by the use of rubbing alcohol to obtain any samples.

13. The Field Inspector noted that the Pro-Control Plus product used on January 2, 2015 was applied in a manner inconsistent with its label. Under the *DIRECTIONS FOR USE*, the following instructions are found:

1. COVER waxed wood floors, waxed furniture and stereo or other plastic dust covers in the immediate area surrounding the fogger.
3. Place a chair, table or stand in the center of the room to be fogged. Cover with several layers of newspaper, paper towels or plastic tarp. Open and thoroughly ventilate treated areas for at least 30 minutes before reoccupying.
5. Set fogger on covered stand. Immediately leave treated area.
6. Before re-occupying area, open all doors and windows and allow treated area to air for 30 minutes.

14. Respondent, who performed the treatment on January 2, 2015, did not elevate either product, cover any furniture or flooring or clear the area before reentry by the Baileys.

15. On March 5, 2015, Complainant's Inspector contacted Tim Sayers, Customer Service Representative for Whitmire Micro-Gen. According to Mr. Sayer, the damage found on the recessed lighting, plastic light fixtures, end tables, vacuum cleaner, telephone, fire alarms and other plastic items located in the treatment area of the foggers can be attributed to the petroleum distillates used in the Pro-Control Plus. He further stated this was the reason for the covering requirement found on the label. When questioned specifically concerning the metal ceiling fan, it was discussed that there may have been a clear plastic coating over the brass to prevent corrosion which was damaged by the application and resulted in discoloration to the ceiling fan.

16. Complainant's Inspector also noted that the Cy-Kick CS used on January 2, 2015 was applied in a manner inconsistent with its label. Under the *DIRECTIONS FOR USE*, the following instructions are found:

*"Cy-Kick CS, may be used on any surface which will not be damaged or stained by water. Heavy applications may leave a visible deposit. On some surfaces this deposit can be removed with a damp cloth or sponge."*



17. Inspection of the Bailey residence indicated that Cy-Kick CS was used on a surface which was damaged and/or stained by water and/or was not able to be removed with a damp sponge or cloth by Ms. Bailey. The damage on the ceiling around the light fixtures, on the closet and window trim and their adjacent painted walls appeared to be water damage to these surfaces.

18. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

§ 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

(9) Using any pesticide in a manner inconsistent with its labeling.

02 NCAC 34.0405

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

19. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

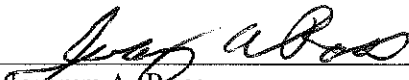
20. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

(a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

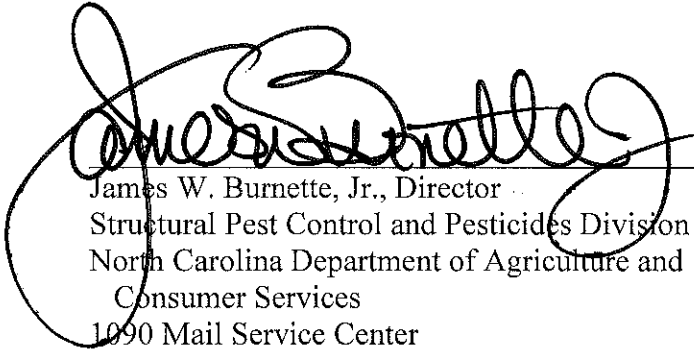
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 20(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 20(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
Mr. Jeremy A. Ross  
c/o Ortho's Pest Management  
468 North Fayetteville Street  
Asheboro, North Carolina 27203

11-10-2015  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, NC 27699-1090

11/12/2015  
Date

  
Barry H. Bloch  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602-0629

13 NOV 2015  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

GARY W. ELLIOTT,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2015-9

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Gary W. Elliott, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent Gary W. Elliott was unlicensed in structural pest control and was the owner/operator of Gary W. Elliott Construction, 4735 Merriweather Drive, Winston-Salem, North Carolina 27207.
2. On April 17, 2015, Complainant's Inspector Jimmy Hall responded to a request for inspection by Elizabeth Mark concerning her property located at 3750 Merriweather Drive, Winston-Salem, North Carolina 27106.
3. Mr. and Mrs. Mark purchased their home on August 19, 2013. The builder for the home was Respondent.
4. Ms. Mark reported to Field Inspector Hall that, in the spring of 2014, they began noticing small holes appearing in the surface of the oak flooring and there were small deposits of sawdust material around each hole.
5. The Marks were within their warranty period with the Respondent, and requested he meet to discuss this issue. Respondent met with the Marks at their home and had a Pest Management Professional attend the meeting with him so he could perform an inspection of the property.

6. The Pest Management Professional identified the problem with the Marks' hardwoods as lyctid powderpost beetles exiting the hardwood floors and recommended the floors be sanded, a borate treatment applied to the floors and a fumigation performed at the property. In the alternative, the Pest Management Professional recommended the entire flooring be replaced.

7. Rather than take the advice of the Pest Management Professional, Respondent instructed his employee to go to the Marks' home, add boric acid granules in the exit holes and then apply wood putty to seal the holes.

8. The Marks reported that, by spring of 2015, additional holes and sawdust material appeared on their hardwood floors which resulted in the Marks' complaint and the request for an inspection by Complainant's Inspector.

9. During Inspector Hall's inspection of the Marks' property, he noted that there were powderpost beetle exit holes throughout the oak flooring on the first level of the Marks' home which appeared to have fresh frass around the exit holes. Complainant's Inspector also noted holes that contained wood putty.

10. Based on these findings, Complainant's Inspector spoke with the Pest Management Professional that originally inspected the Marks' home in 2014 and confirmed that he had recommended the Marks' floors be replaced or have a pest control company perform a borate treatment. He stated that Respondent's response to his recommendation was that Respondent could not afford those options. There was no further communication between the Pest Management Professional and Respondent.

11. Complainant's Inspector interviewed Respondent who disclosed that the hardwood floor installed in the Marks' home was purchased from an auction house in Charlotte, North Carolina and did not have a warranty. He also confirmed that he had instructed his employee to apply boric acid granules to the open powderpost beetle exit holes and then fill them with wood putty. Respondent informed Inspector Hall that he purchased the boric acid from a hardware type store.

12. Respondent further stated that he was not willing to replace all the hardwood flooring in the Marks' home, although he would replace and refinish any flooring that had evidence of the holes and would continue to perform this repair each year until the beetles stop coming through the wood surface. In order to assure this service, Respondent would be willing to bond this contract so that the Marks' interest is protected well into the future.

13. Complainant's Inspector informed Respondent that neither he, nor his employees, should have attempted to treat the Marks' property and a licensed pest control company should have been retained to ensure the proper treatments were performed.

14. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

15. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

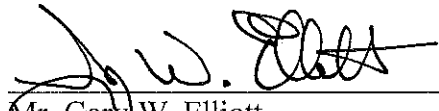
16. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Five Hundred Dollars (\$1,500.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Five Hundred Dollars (\$1,500.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Five Hundred Dollars (\$1,500.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 16(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 16(b) of this Agreement;

- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

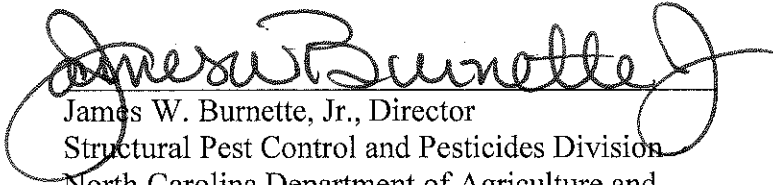
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



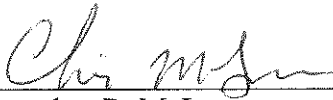
Mr. Gary W. Elliott  
Gary W. Elliott Construction  
4735 Merriweather Drive  
Winston-Salem, North Carolina 27207

JAN. 18 2016  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

1-21-2016  
Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

1/25/16  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

PRESTON P. SANDLIN, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File Nos. SPW2015-10

SPW2015-13

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Preston P. Sandlin, hereinafter referred to as Respondent.

1. At all times pertinent to these matters, Respondent held Structural Pest Control License Number 1557W, which was registered to the business address at Home Inspection Carolina, 10023 Zackery Avenue, Charlotte, North Carolina 28271.

#### SPW2015-10 SUMMARY

2. On April 27, 2015, Complainant's Inspector Mark Flynn responded to a request for inspection by Chad and Susan Johnson concerning their property located at 1100 Shinnecock Lane, Charlotte, North Carolina.

3. On September 12, 2014, Mr. and Mrs. Johnson had a Wood-Destroying Insect Information Report ("WDIR") inspection performed on their property by Mr. Dek Nance of Home Inspection Carolina, an employee of Respondent.

4. On September 13, 2014, Mr. Nance issued the WDIR indicating no visible evidence of infestation from wood-destroying insects. There was a notation on the reverse side of the report indicating: *There are termite bait stations around the exterior foundation of the home. This home may be under a termite bond and may be transferable. Ask the seller if the home is bonded and the rates to transfer the bond to a new owner.*

5. Following the purchase of their home, the Johnsons' regular pest control provider discovered evidence of termites at the front foundation wall in the basement of the home. The Johnsons contacted Complainant's Inspector for further investigation and inspection regarding the WDIR and termite evidence.

6. Upon further investigation by Complainant's Inspector, he discovered the following issues pertaining to the Johnsons' property:

- (a) The home is basement construction. Along the top of the front foundation wall, between the bay window and garage, termite mud tubing was observed. The tubing was visible from a standing position on the basement floor.
- (b) Inspection of the tubing found no live activity. Three termite monitoring stations were still visible along the exterior of the home. The original treatment was performed on March 27, 2012 and the contract was not renewed in 2013. The monitoring/bait stations were not removed following cancellation. The contract could be reinstated for a fee of \$100.00, plus the contracted renewal fee for the coming year of \$412.00.

7. Complainant's Inspector noted a secondary deviation from acceptable practices due to the inaccurate WDIR's failure to indicate the termite evidence in the basement.

#### SPW2015-13 SUMMARY

8. On August 24, 2015, Complainant's Inspector Mark Flynn received a request for inspection by Eric Laine, a Realtor, concerning the property at 2421 Kenmore Avenue in Charlotte, North Carolina 28204. The request pertained to a WDIR issued on January 6, 2014 by John Steven Leech with Home Inspection Carolina, an employee of Respondent.

9. The request for inspection came following an inspection of the property by Marty Ivey of Ivey Exterminating. Mr. Ivey reported to Mr. Laine that the original WDIR was incomplete in that the WDIR indicated Subterranean Termites and a location, but nothing was checked regarding control measures or the activity of the infestation. Based on these findings, Mr. Ivey declined to issue a WDIR and suggested that Mr. Laine contact the Division for a correction of the original report.

10. On August 27, 2015, Respondent issued a corrected WDIR that indicated all of the additional termite evidence found by Complainant's Inspector. In the report: *No control measures performed* was changed to *Evidence of previously treated infestation, which now appears to be inactive*.

11. Following his investigation on August 26, 2015 and review of the revised WDIR issued by Respondent on August 27, 2015, Complainant's Inspector identified the following issues:

- (a) Additional termite evidence, not indicated on WDIR, was found in the crawl space. There were termite tubing stains on the right side exposed sheathing and broken termite tubing on a pilaster along the left side, midway between the evidence indicated by Respondent and the left rear corner.
- (b) No evidence of current activity or damage to any of the new wood was noted.
- (c) The initial Wood-Destroying Insect Information Report was incomplete, but no copy was available for inspection. The second WDIR issued on August 27, 2015 was found to be inaccurate in that it failed to indicate all evidence of termites and did not have a statement to disassociate the termite evidence from the evidence of previous treatment. Therefore, the WDIR should have indicated: *Visible evidence of a previously treated infestation which now appears to be inactive.*
- (d) The digital Wood-Destroying Insect Information form used has minor variations from the WDIR approved by the Structural Pest Control Committee. The word "concealed" in the paragraph at the top is replaced with the word "called." The word "infestation" is capitalized. In section #2, the word "caused" should not be in bold print.
- (e) The Structural Pest Control and Pesticides Division Wood-Destroying Insect Information "Enforcement Policy" prohibits the alteration of the form in any way.

#### ADDITIONAL INFORMATION

12. In addition to the instant actions (SPW2015-10 and SPW2015-13), Complainant further noted a record of the following previous incidents involving Home Inspection Carolina:

- (a) On January 6, 2014, Respondent's Registered Technician, John Steven Leech, issued an inaccurate Wood-Destroying Insect Information Report.
- (b) On May 28, 2014, Respondent received a Caution letter from the Complainant.
- (c) On April 6, 2015, Respondent was issued a Notice of Warning (SPW2015-4) for an inaccurate WDIR issued on February 6, 2015 by Registered Technician, Jay Ryland.

13. As a result of its investigations, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

02 NCAC 34.0602(a) states in pertinent part:

"An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee."

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34.0325 Duty of license holder to control activities.

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

- (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.

14. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

#### SETTLEMENT – SWP2015-10 & SPW2015-13


15. The parties are willing to accept a settlement of the disputes between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Two Thousand Dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

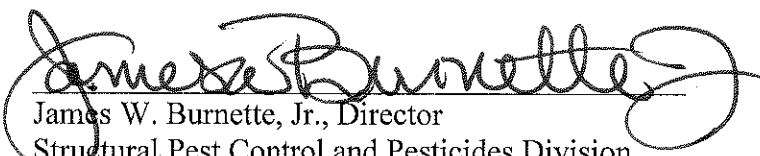
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Two Thousand Dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Two Thousand Dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 15(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 15(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in N.C. Gen. Stat. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, N.C. Gen. Stat. 106-65.22 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
\_\_\_\_\_  
Preston P. Sandlin  
Home Inspection Carolina  
10023 Zaakery Avenue PO Box 77313  
Charlotte, North Carolina 28271  
Charlotte, NC 28271

1-12-16  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

1-21-2016  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

1/25/16  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

ROBERT W. BEAVERS,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2016-3

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Robert W. Beavers, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1327PW, which was registered to the business address at AAAA Bug Man, 10660 South Tryon Street, Charlotte, North Carolina 28277.
2. On January 21, 2016 and February 8, 2016, Complainant investigated two separate complaints regarding inaccurate Wood-Destroying Insect Information Reports (WDIRs) prepared by technicians under the employment of Respondent, d/b/a AAAA Bug Man.
3. On January 21, 2016, Complainant's Inspector Mark Flynn investigated a complaint received from Anna Hinson regarding a property located at 12328 Woodbend Drive in Matthews, North Carolina. Ms. Hinson questioned the accuracy of the WDIR prepared by AAAA Bug Man employee, Billy Edmund Russell, Jr., based on his misidentification of powder post beetles as evidence of termites on the property. In addition, Mr. Russell failed to note the powder post beetle evidence at the base of the front porch supports on his WDIR report. He also neglected to notate the names of the buyer or seller on the report.
4. On February 8, 2016, Inspector Flynn investigated a second complaint involving another WDIR prepared by Billy Edmund Russell, Jr. This complaint was received from Steve Hasselberg regarding his property located at 5013 Olde Stone Lane in Charlotte, North Carolina. The WDIR indicated "control measures performed." The Realtor contacted Mr. Russell via e-

mail on February 13, 2016 to ask about the treatment that was performed, as the homeowner had not contracted for any additional services. Mr. Russell stated that the box was checked in error and issued a corrected report, with the same date as the previous report, indicating "no control measures performed." Mr. Hasselberg contacted a different pest control company regarding any proposed treatment to his residence and the licensee for that company indicated that the WDIR prepared by Mr. Russell may be inaccurate and suggested Mr. Hasselberg contact Complainant for an inspection.

5. Upon further investigation, Inspector Flynn discovered evidence of previous pest control treatment along the entire exterior foundation walls, garage slab and porch slab. Partial termite tubing and stains on the foundation wall were located in the back right corner of the garage below the water heater stand, although no live activity was observed. When interviewed by Inspector Flynn, Mr. Russell stated that he had initially checked the wrong box on the WDIR report and therefore prepared a corrected report for Mr. Hasselberg. Mr. Russell stated that he did not recall any treatment to the home and did not recall seeing any live activity at the time of his inspection. As a result of Inspector Flynn's findings, Mr. Russell agreed to issue yet another WDIR reflecting the previously treated infestation with the current date, rather than a backdated report.

6. In addition to the two incidents listed above, Inspector Flynn also determined that Respondent had not applied for a Registered Technician Card for Mr. Russell or Daniel Webster, another Registered Technician working with AAAA Bug Man. Mr. Russell had been employed by AAAA Bug Man since February of 2015 and Mr. Webster was hired in January of 2014.

7. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

02 NCAC 34.0602:

- (a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

02 NCAC 34 .0325

- (e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.



N.C. Gen. Stat. § 106-65.25.

- (c) It shall be unlawful for any licensee to do any of the following:
  - (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.31(b1)

Registration - within 75 days after the hiring of an employee who is an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee.

8. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

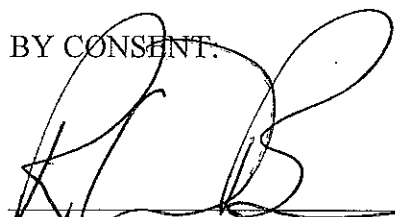
9. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 9(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 9(b) of this Agreement.

- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Robert W. Beavers

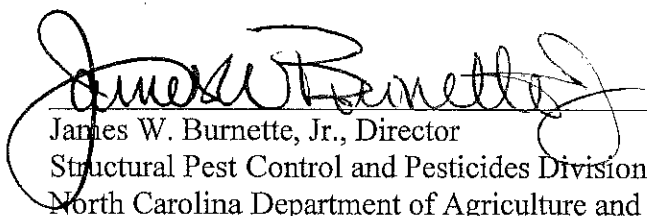
AAAA Bug Man

10660 South Tryon Street

Charlotte, North Carolina 28277

9/15/16

Date



James W. Burnette, Jr., Director

Structural Pest Control and Pesticides Division

North Carolina Department of Agriculture and

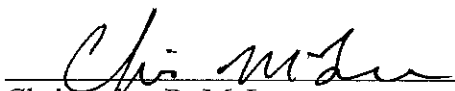
Consumer Services

1090 Mail Service Center

Raleigh, North Carolina 27699-1090

Sept. 15, 2016

Date



Christopher R. McLennan

Assistant Attorney General

North Carolina Department of Justice

Post Office Box 629

Raleigh, North Carolina 27602-0629

9/15/16

Date

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APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_

Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2015-14

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

WILLIAM RANDALL BAKER,

Respondent.

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and William (Bill) Randall Baker, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was operating as "Bill the Bug Man" at 248 Pleasant View Loop, Morganton, North Carolina 28655. At no time pertinent to this matter was Respondent licensed to perform Structural Pest Control or employed by a licensed pest control company.

2. On October 12, 2015, the Complainant received a request for inspection from Mr. Ronald Cook. Mr. Cook indicated that, on October 8, 2015, a company operating as "Bill the Bug Man" performed a pest control treatment to his residence located at 109 Hogan Street, Morganton, North Carolina 28655. Mr. Cook also reported that this pest control company, which was operated by Respondent, had been providing quarterly pest control services since the summer of 2012 at a charge of \$50.00 per quarter.

3. Mr. Cook further reported that, following the most recent pesticide application to the exterior of his home on October 8, 2015, the family's cats became very ill and would not eat. Mr. Cook contacted Complainant for assistance in obtaining the name and type of pesticide applied by Respondent so that his veterinarian could administer proper treatment to his family's cats.

4. On October 12, 2015, based on Mr. Cook's complaints and concerns, Complainant's Field Inspector Paul Lail attempted to contact Respondent at the phone number provided by Mr. Cook. Although Respondent answered the phone, once Inspector Lail identified himself, they were disconnected. When Inspector Lail attempted to call Respondent back at that same number, Respondent did not answer. Inspector Lail left Respondent a voice mail message, asking Respondent to return his phone call.

5. On October 16, 2015, Complainant's Field Inspector Roger Bryan met with Mrs. Patty Cook and Ms. Ramona Russell (who was at the residence during the application). During that interview, Mrs. Cook, who resides with her husband Ronald Cook at 109 Hogan Street in Morganton, North Carolina, confirmed that Respondent had been performing quarterly pest control at their home at a cost of \$50.00 a quarter since 2012. Mrs. Cook stated that they had a scheduled service on Thursday, October 8, 2015, but that she was not able to be at her residence during that time. Therefore, she made arrangements for Ms. Russell to be at her home during the scheduled service so that Respondent could perform the pest control service. Mrs. Cook stated that Ms. Russell informed her on Thursday night, following the treatment, that Respondent sprayed pesticide on Mrs. Cook's cats during the application.

6. Mrs. Cook reported that the following day, one of her cats started having seizures. Mrs. Cook stated that she called Respondent to ask if the cats were sprayed during the application and he said he did not spray the cats, although later in the call he confirmed that he did spray her cats.

7. Inspector Bryan also interviewed Ms. Russell, who stated that she present during the time of the October 8, 2015 treatment. She reported that Respondent arrived in a burgundy pickup truck and he mixed the pesticide solution in a backpack applicator. She further stated that Respondent noted that she was barefoot and warned her that the chemical he was using would "eat off her feet." Ms. Russell also reported that Respondent drenched the three kittens with pesticide during the treatment of Mrs. Cook's rose bushes. Following the application, Ms. Russell reported that Respondent put up his equipment and approached her for a check. Ms. Russell stated that she told Respondent that she did not have a check, so Respondent left a \$50.00 invoice for her to give to Mrs. Cook and left the residence.

8. During the investigation, Mrs. Cook furnished two canceled checks, one made out to "Bill" and the other one to "Randall Baker," each for \$50.00. The checks provided were dated December 9, 2014 and May 15, 2015. Mrs. Cook also provided two service invoices to Inspector Bryan during the interview. One service invoice, dated October 8, 2015, was for pest control and billed \$50.00 for this service. This invoice was signed by "Randall Baker." The other service invoice, dated May 15, 2015, also indicated that it was for pest control and billed \$50.00 for this service. This invoice was signed by "Bill the Bug Man." Inspector Bryan noted that the Cooks did not pay for the pest control service rendered on October 8, 2015.

9. On October 19, 2015, Complainant's Western Field Manager Rick Reid contacted Respondent. Respondent told Mr. Reid that he used Permethrin at the Cooks' home, but did not charge for the service. Respondent agreed to meet with Field Manager Reid and Inspector Lail the following day.

10. On October 20, 2015, Field Manager Reid and Inspector Lail visited the Cooks' home for the purpose of taking photographs and obtaining pesticides swab samples to determine the pesticide that was used at the home. One control sample was taken along with two pesticides swab samples. The area sampled was the front glass storm door – the upper right corner and the lower right corner. These areas appeared to have a filmy discoloration and did not appear to have been wiped clean following the October application. All samples were sent (via the State Courier) to the Raleigh lab for analysis.

11. Later that same day, Field Manager Reid and Inspector Lail met with Respondent to obtain his statement. Respondent admitted that he performed pesticide applications to three homes as a favor for family or friends. He could only recall spraying the home of Mr. and Mrs. Cooks' one time. The homes treated by Respondent were: "Mr. Baker's neighbor, the Cooks' home and Mr. Baker's brother-in-law." According to Respondent's admissions and documentation, Respondent performed at least five unlicensed treatments. Respondent stated that the pesticide chemicals were purchased from a home and garden store with the payments he received from the homeowners.

12. Based on records maintained by the State of North Carolina, Structural Pest Control Section, Respondent was not licensed to perform Structural Pest Control or employed by a licensed pest control company in North Carolina at the time of the treatments at issue.

13. On October 20, 2015, Field Manager Reid handed Respondent a Cease and Desist Order and instructed him to immediately stop providing services as a Structural Pest Control Company until such time as he was properly licensed.

14. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

15. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

16. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Two Thousand Dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Two Thousand Dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Two Thousand Dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 16(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 16(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, or any of the rules promulgated thereunder, 02 NCAC 34 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.



WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

William Randall Baker  
William Randall Baker  
Bill the Bug Man  
248 Pleasant View Loop  
Morganton, North Carolina 28655

2-15-16  
Date

James W. Burnette, Jr.  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

2/19/2016  
Date

Christopher R. McLennan  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

2/19/2016  
Date

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APPROVED AND ORDERED FILED,

this the 6 day of June, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: Yund Warr  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ROGELIO "ROGER" DIAZ, Individually, )  
and d/b/a ABSOLUTE EXTERMINATION, )  
INC., )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW16-1A

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Rogelio "Roger" Diaz (individually and d/b/a "Absolute Extermination, Inc."), hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent did not hold a valid North Carolina Structural Pest Control License.
2. On September 8, 2015, the North Carolina Structural Pest Control and Pesticides Division received an email from an anonymous person complaining that Respondent was performing structural pest control activities, and operating a pest control company under the name of Absolute Extermination, Inc., without a valid structural pest control license.
3. A review of Structural Pest Control Section records revealed that Respondent was not authorized to perform structural pest control activities in North Carolina as a licensee, certified applicator, or registered technician. Respondent was previously certified as a Registered Technician operating with All Seasons Pest Control. However, Respondent's Registered Technician certification expired on June 30, 2010.

4. Additionally, this review revealed that Absolute Extermination, Inc., was operated under the license of Mr. Kyle C. King (License No. 1738P) until June 30, 2012, at which time Mr. King's structural pest control license expired. According to documents filed with the North Carolina Secretary of State's Office, Respondent is the Treasurer for Absolute Extermination, Inc., and Respondent's brother, Christian Diaz, is the President of Absolute Extermination, Inc. Mr. Christian Diaz previously held a Registered Technician certification with All Seasons Pest Control, which also expired on June 30, 2010. Neither Respondent nor Mr. Christian Diaz were ever authorized, licensed, or certified to perform structural pest control activities for Absolute Extermination, Inc.

5. On September 9, 2015, in an effort to obtain more information on the location of Respondent, Complainant's Inspector Roger Bryan attempted to interview Ms. Joanna Radford (an extension agent) in Dobson, North Carolina. Although she was not available at that time, Ms. Radford did call Complainant's Inspector on September 21, 2015 and provided him with an address for Respondent.

6. During the ongoing investigation, Complainant's Inspector learned that Respondent had previously been employed by Eco-Lab and All Seasons Pest Control. Although Eco-Lab was unable to provide any current information on Respondent, Al Issacson with All Seasons Pest Control provided a list of customers that Respondent serviced during his employment with All Seasons Pest Control. During Mr. Issacson's interview on October 7, 2015, Mr. Issacson provided Complainant's Inspector a copy of Respondent's driver's license and expired Registered Technician card.

7. Based upon the review of the customer list provided by Mr. Issacson, several Field Inspectors in the western portion of the state divided the list of customers and began to contact as many as possible to ascertain the current location and practices of Respondent.

8. In speaking with the owners of the business identified on the customer list provided by Mr. Issacson, the following facilities confirmed that Absolute Extermination, Inc., provided them with structural pest control services over the past few years, including between 2012 and the date of the inspection:

<b>CUSTOMER</b>	<b>SERVICE REPORTS (if available)</b>
Thai House – Mt. Airy, NC	8
Rigotoni Pizzeria – Pilot, NC	Not Available
Ichiban Japanese Restaurant	Not Available
Monterrey Restaurant	Not Available
Mellow Mushroom – Winston-Salem, NC	25
Mellow Mushroom – Charlotte, NC	9
La Jalisco – Charlotte, NC	1
Zapatas – Charlotte, NC	1
Don Pedros – Pineville, NC	8
Acteca – Charlotte, NC	Not Available

9. Several of these business owners identified Respondent and Mr. Christian Diaz as the technicians that performed their pest control services. As part of their ongoing investigation, Complainant's Inspectors obtained written statements from the business owners, identified the approximate dates of service, and collected invoices/service reports for structural pest control services, several of which appears to have been signed by Respondent.

10. Many of the invoices/service reports, and a business card obtained during the investigation for Absolute Extermination, Inc., that contains Respondent's name, lists North Carolina Structural Pest Control License No. 1739P. This license number is assigned to Charlie Arnold of Arnold Pest Control. Mr. Arnold confirmed that neither Respondent nor Mr. Christian Diaz are authorized to perform pest control activities under his license.

11. On November 6, 2015, Tony May, with the Raleigh office of North Carolina Structural Pest Control and Pesticide Division, received a call from Mr. Michael B. Fanning of Advanced Pest and Lawn in Burgaw, North Carolina. Mr. Fanning reported that Mr. King contacted him and offered to sell him Absolute Extermination, Inc.'s commercial pest control accounts that were currently being serviced by Respondent.

12. Mr. Fanning also indicated that on November 4, 2015, Respondent had provided him with a customer list of commercial pest accounts that Respondent claimed to be servicing. The list contained thirty-four (34) pest control accounts that Respondent claimed to be currently servicing, as well as four (4) accounts that Respondent claimed to have lost but was considering attempting to get back.

13. On November 6, 2015, Complainant's Inspector Jimmy Hall received a call from Kyle King's wife, Melanie King. Ms. King reported that they recently moved to Texas, however, they were under the impression Mr. King's structural pest control license was current and that she continued to maintain an active liability insurance policy in North Carolina. Ms. King also stated that her husband would return to North Carolina every two to three weeks to supervise the pest control services being performed under his company's name. During their conversation, Complainant's Inspector requested that Ms. King provide a copy of all records maintained regarding the structural pest control services provided by her husband's company, Absolute Extermination, Inc.

14. On November 9, 2015, Mr. Fanning met with Complainant's Field Inspector Richard Willis to provide a statement detailing his conversations with Mr. King and Respondent regarding the offer to sell the commercial pest control accounts for Absolute Extermination, Inc. Mr. Fanning also provided a current address for Respondent.

15. On November 9, 2015, Complainant's Field Manager Rick Reid mailed a Cease & Desist letter addressed to Mr. King at the Texas address provided by his wife, ordering Mr. King and Absolute Extermination, Inc., to cease all unlicensed practice of structural pest control in North Carolina. However, the United States Postal Service returned this letter to the Structural Pest Control Section as unclaimed.

16. On November 19, 2015, Complainant's Inspector Bryan attempted to locate and interview Respondent at the address previously provided by Mr. Fanning, which was 107 Lovill Avenue in Mt. Airy, North Carolina. Complainant's Inspector spoke with a female at the residence who confirmed that Respondent lived there, but claimed that Respondent was not available at that time to answer any questions. Later that same day, Complainant's Inspector Bryan received a voicemail from Respondent indicating that he would only speak to Complainant's Inspector with his attorney present.

17. At approximately 5:00 p.m. on November 19, 2015, Respondent contacted Complainant's Inspector Bryan to schedule a time to meet and answer any questions in the presence of his counsel. The meeting was set for November 20, 2015 at 11:00 a.m. at Respondent's attorney's office in Dobson, North Carolina. The meeting was to be attended by Complainant's Field Manager Reid, Complainant's Inspector Bryan, Respondent, and Respondent's attorney.

18. On the morning November 20, 2015, Respondent contacted Complainant's Inspector Bryan to cancel the meeting, indicating that his attorney was unavailable.

19. On December 1, 2015, Complainant's Inspectors Victor Lennon and David Propoggio met with the Eddie Williams, owner of Time Out Restaurant in Chapel Hill, North Carolina. Mr. Williams confirmed that Respondent had been providing their pest control services for several years. Additionally, Mr. Williams indicated that Respondent had provided pest control services at his other restaurant, which had since closed down. Mr. Williams provided a copy of the service invoice for the last pest control services provided by Respondent. On this same day, Complainant's Inspectors also met with the owners of Sal's Italian Restaurant in Burlington, North Carolina at which time Margaret Mazzurco and Jerry Mazzurco also confirmed that Respondent had been providing their pest control services.

20. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

02 NCAC 34 .0904

- (d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

21. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000.00) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

22. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Three Thousand Five Hundred Dollars (\$3,500.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent denies he is guilty of any willful violation of the North Carolina Pesticide Law or Regulations and his consent to the terms of this Agreement is made in order to timely resolve this matter and shall not be constituted as an admission of guilt, as to any of the violations alleged herein;
- (c) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Three Thousand Five Hundred Dollars (\$3,500.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Three Thousand Five Hundred Dollars (\$3,500.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 22(c) and waives that right by consenting to the terms of this Agreement.

- (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 22(c) of this Agreement;
- (d) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (e) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of:
  - (i) Any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement; and
  - (ii) Any action seeking an injunction to prevent Respondent from further engaging in the unlicensed provision of structural pest control services that is necessitated by Respondent's violation of N.C. Gen. Stat. § 106-65.25 or 02 NCAC 34 .0904 following the Committee's approval of this Settlement Agreement.

23. This agreement is a full and final settlement between Respondent and Petitioner for all claims, incidents, or occurrence occurring on or before the date indicated by Respondent's signature on the final page of this agreement.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

Rogelio Diaz

Rogelio "Roger" Diaz  
(Individually and d/b/a  
Absolute Extermination, Inc.)  
107 Lovill Avenue  
Mt. Airy, North Carolina 27030

5/17/16.

Date

James W. Burnette, Jr.

James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services

1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

5/27/2016

Date

Chris McLennan

Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

5/25/2016

Date

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APPROVED AND ORDERED FILED,

this the 6 day of June, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: Paul Wand  
Chairman



STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW2015-8

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )  
Complainant, )  
v. )  
DEVIE J. GOFORTH, )  
Respondent. )

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Devie J. Goforth, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1262PW which was registered to the business address at Home Spectors Termite and Pest Control, 2630 Shelburne Place, Charlotte, North Carolina 28227.

2. On March 25, 2015, Complainant's Field Inspector John Laughter responded to a request for inspection by Rick Peters, concerning his property located at 8204 Strand Drive, Stokesdale, North Carolina 27357.

3. Mr. Peters expressed concerns regarding the Wood-Destroying Insect information Report issued by Mr. Larry Michael, an employee and certified applicator of Respondent, Home Spectors Termite and Pest Control.

4. Based on Mr. Peter's concerns, Complainant's Inspector conducted an inspection of the property and noted the following items:

- A. The report filed by Respondent was inaccurate in that it stated "Subterranean Termites, No Control Measures were performed," when there was evidence of previous treatment to the structure and no active subterranean termites found during the Field Inspector's inspection.

- B. There was wood to ground contacts found in several places which were not noted in Respondent's report.
- C. The locations of the wood to ground contacts were form boards behind the earth-filled porch and the window framing on the right rear window.

5. As a result of the inaccuracies noted in Respondent's WDIR report, Complainant's Inspector issued Respondent Home Sectors Termite and Pest Control a Notice of Warning letter on January 9, 2014. Home Sectors Termite and Pest Control received a previous Notice of Warning on June 6, 2013 for a similar incident.

6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

02 NCAC 34.0325

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

02 NCAC 34.0602(a) states in pertinent part:

"An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee."

N.C. Gen. Stat. § 106-65.25.

- (c) It shall be unlawful for any licensee to do any of the following:

- (2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

- (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted;
  - (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees;
  - (5) Willful violation of any rule or regulation adopted pursuant to this Article.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

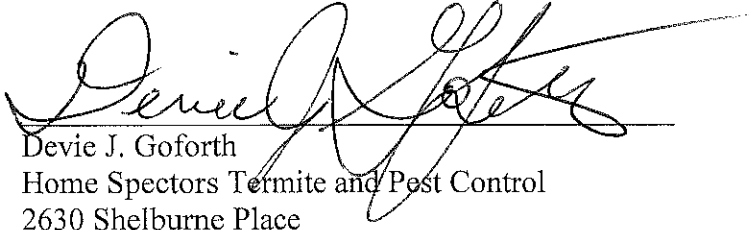
A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

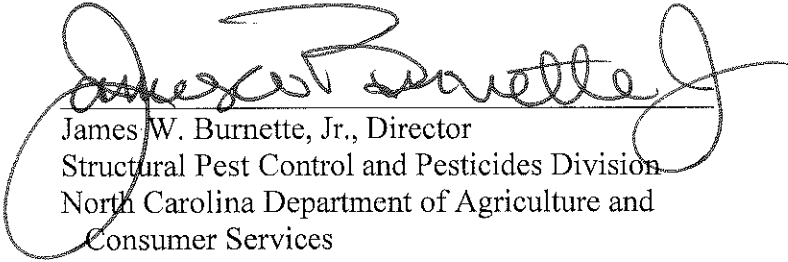
- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
- (c) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 et seq., then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

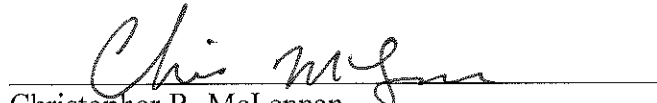
BY CONSENT:

  
Devie J. Goforth  
Home Sectors Termite and Pest Control  
2630 Shelburne Place  
Charlotte, North Carolina 28227

1-16-16  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

1-27-2016  
Date

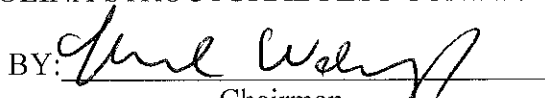
  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

1/26/16  
Date

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the 16 day of February, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

WILLIAM J. MANNING,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPE2015-2A

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and William J. Manning, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 576PW, which was registered to his business address at Manning's Pest Control, 4205 Long Beach Road, SE, Southport, North Carolina 28461.
2. On February 11, 2015, Complainant's Inspector, Richard Willis, identified a chemical spill located at 2017 Colony Pines Drive in Leland, North Carolina during an inspection of a residential construction site. Complainant's Inspector noted that Bora-Care was being applied to the wooden members of a slab, which resulted in blue dye running down the driveway of the residence and onto the curb. Complainant's Inspector also noted that this stream of dye was proceeding toward a storm drain, which leads to a watershed.
3. During his investigation, Complainant's Inspector identified two registered technicians from Manning's Pest Control on site: William Sprague and Charles Barrier. Both employees hold registered technician cards under Respondent's License No. 576PW.
4. When questioned by Complainant's Inspector, the technicians explained that the hose they were using for the application ruptured while treating the interior wall of the slab and they did not have spill control material available for use on their service vehicle.

5. Complainant's Inspector noted that a steady stream of Bora-Care solution was running from the truck and pooling under the truck. One technician placed two food containers (Plastic Hawaiian Punch bottle) under the truck to recapture the chemical and it contained about 2 inches of (blue) Bora-Care solution before being discovered by Complainant's Inspector.

6. Complainant's Inspector noted that the application equipment had been modified and two different types of hoses were pieced together. The increasing pressure at the junction of the hoses caused the hoses to fail and resulted in the rupture and subsequent chemical spill.

7. While Complainant's Inspector was onsite at the spill, a Manning's Pest Control manager (Richard) arrived on the scene with absorbent material to contain the chemical. The spill material was properly disposed of and sand was used to create a dam above the storm drain to prevent the solution from directly entering the storm drain.

8. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34 .0325 Duty of license holder to control activities.

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

02 NCAC 34 .0406 Spill Control.

Licensees and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

9. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.


A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

10. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

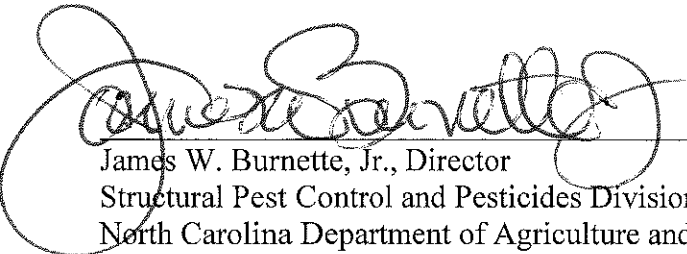
- (a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 10(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 10(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

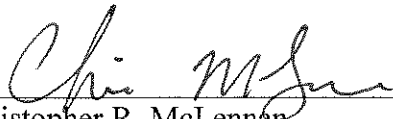
BY CONSENT:

  
\_\_\_\_\_  
William J. Manning  
Manning's Pest Control  
4205 Long Beach Road, SE  
Southport, North Carolina 28461

4/13/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

4/19/2016  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

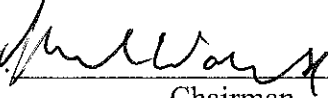
4/19/2016  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 6 day of June, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY   
\_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2016-11

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

SOLOMON AIRHART, Individually and )  
d/b/a ARUZA PEST CONTROL, )

Respondent. )

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Solomon Airhart, Individually and d/b/a Aruza Pest Control, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was an unlicensed pest control applicator and was the owner/operator of Aruza Pest Control, 1400 Sharon Road West, Charlotte, North Carolina 28210.

2. While conducting a routine internet search of pest control companies operating in North Carolina, Complainant's Structural Pest Control Inspector Mark Flynn discovered that Respondent, Solomon Airhart, was the owner/operator of Aruza Pest Control located at 1400 Sharon Road West in Charlotte, North Carolina, and was advertising pest control services through various websites, including Facebook, Google+, Groupon and Instagram.

3. Complainant's Inspector could not locate any license or registration for structural pest control in the Automated Inspection System for Respondent or any employee of Aruza Pest Control.

4. On September 9, 2016, Complainant's Inspector interviewed Respondent regarding his registration status with the North Carolina Structural Pest Control Division. Respondent reported that he had attended the Registered Technician Training Program and had taken the Certified Applicator exam. He passed the P phase of the exam. However, Respondent admitted that he had not purchased the Certified Applicator card and stated that he completed, but not yet submitted, his application to test for the License Exam.

5. During the interview, Respondent stated that his pest control company was started in July of 2016 and he currently serviced 41 accounts in North Carolina. The 41 accounts were scheduled for service on a 90-day basis.

6. Following the interview, Respondent reported to Complainant's Inspector that he would purchase the Certified Applicator card and submit his application for the License Exam. Complainant's Inspector instructed Respondent to suspend all structural pest control services and advertisements for these services in North Carolina until Respondent had secured his structural pest control license or, in the alternative, he hired an existing licensee on a full-time basis to perform any pest control services on behalf of Aruza Pest Control.

7. On September 12, 2016, Complainant's Field Manager Rick Reid issued a Cease & Desist Letter, which was hand-delivered by Complainant's Inspector that same day to Respondent, instructing Respondent and Aruza Pest Control to cease all structural pest control activities in North Carolina until such time as the company was properly licensed to do so.

8. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

9. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

- (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:
  - (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.
  - (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

10. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Two Thousand Dollars (\$2,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Two Thousand Dollars (\$2,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Two Thousand Dollars (\$2,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

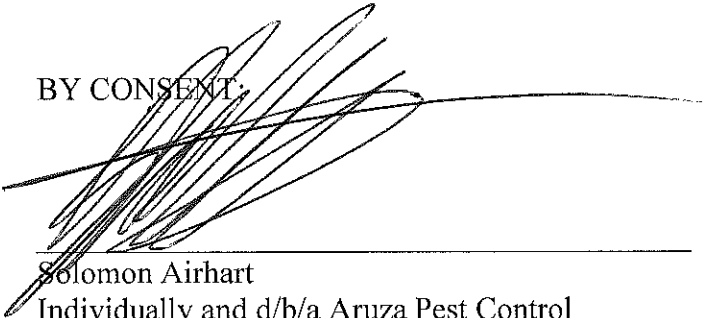
- (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 10(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 10(b) of this Agreement;
  - (ii) Respondent further agrees to indemnify and fully reimburse Complainant for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedures that are necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Agreement.
- (c) Respondent further agrees that all sums payable to Complainant pursuant to this Agreement are nondischargeable in bankruptcy under 11 U.S.C. §523. Nothing in this Agreement releases any nondischargeability claims that may be asserted by Complainant in any bankruptcy proceeding, and nothing in this Agreement shall be deemed a waiver of Complainant's right to rely on the nature of any claim or debt released in this Agreement to show that the claim or debt is nondischargeable.
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

11. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

12. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

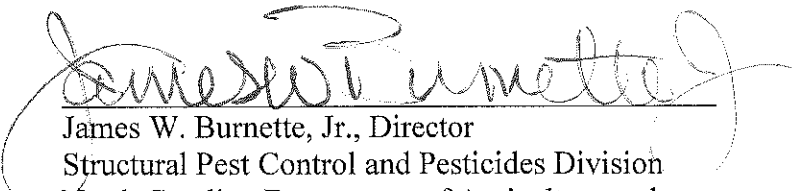
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

  
\_\_\_\_\_  
Solomon Airhart  
Individually and d/b/a Aruza Pest Control  
1400 Sharon Road West  
Charlotte, North Carolina 28210

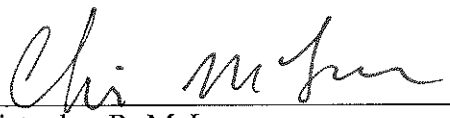
Date

4/13/17

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

Date

5-2-2017

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

Date

5/9/2017

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW2016-8

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )  
Complainant, )  
v. )  
JEFFREY D. BREWSTER, )  
Respondent. )

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Jeffrey Brewster, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1997PW which was registered to Respondent's business, Royal T Pest Control, 7347-A West Friendly Avenue, Greensboro, North Carolina 27410.
2. During a records inspection of Royal T Pest Control on August 10, 2016, Complainant's Inspector, John Laughter, determined that the liability insurance for Royal T Pest Control had lapsed from May 17, 2016 to July 20, 2016.
3. During the investigation, Complainant's Inspector interviewed Respondent, the owner and licensee of Royal T Pest Control. At that time, Respondent reported that a change in liability carriers resulted in the lapse of coverage. Respondent also confirmed that a total of \$8,049.00 in household pest control services was performed by Royal T Pest Control during the lapse in liability coverage. No W-phase work was performed during the time at issue.
4. Complainant's Inspector did confirm that, as of the date of the inspection, Respondent had secured proper liability coverage and had come back into compliance.

5. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

#### 02 NCAC 34 .0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) the licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

#### 02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance completed by the insurance company with the Division named as a certificate holder.

- (d) The Certificate of Insurance shall clearly set forth the type of coverage, limits of liability, and any exclusions of the policy and shall have attached an endorsement which indicates that the policy provides coverage for any pollution or contamination occurring as a result of the use or application of any pesticide or shall state that such an endorsement has been issued with the policy.
- (e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.
- (f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:
  - (3) expiration of the policy.

6. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a structural pest control license, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C. Gen. Stat. § 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (3) Failure of the licensee or certified applicator to make registrations herein required or failure to pay the registration fees.



7. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 7(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 7(b) of this Agreement;
  - (iii) Respondent further agrees to indemnify and fully reimburse Complainant for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedures that are necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Agreement.
- (c) Respondent further agrees that all sums payable to Complainant pursuant to this Agreement are nondischargeable in bankruptcy under 11 U.S.C. §523. Nothing in this Agreement releases any nondischargeability claims that may be asserted by Complainant in any bankruptcy proceeding, and nothing in this Agreement shall be deemed a waiver of Complainant's right to rely on the nature of any claim or debt released in this Agreement to show that the claim or debt is nondischargeable.
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;

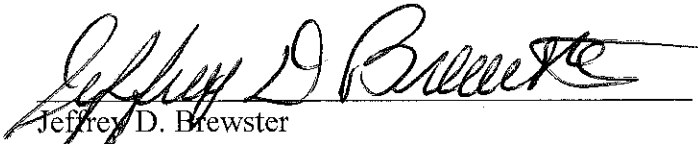
- (e) That Respondent acknowledges that this Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

8. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

9. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

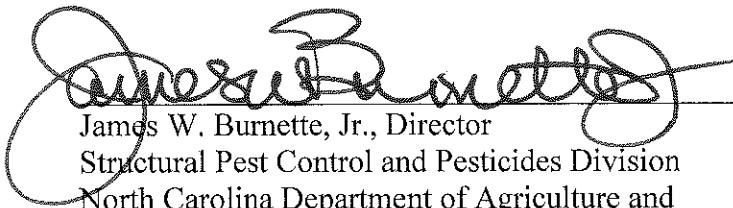
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



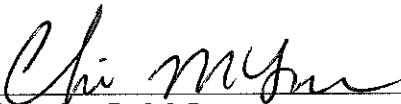
Jeffrey D. Brewster  
Royal T Pest Control  
7347-A West Friendly Avenue  
Greensboro, North Carolina 27410

03/27/2017  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

7-10-2017  
Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

7/10/2017  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

KIM ALAN KING,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2016-10

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Kim Alan King, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was the Certified Applicator (No. CA 4110PF) for Lakeside Mills, 398 West Main Street, Spindale, North Carolina 28160.
2. On September 1, 2016, after receiving an email notification on August 29, 2016 from Sheila Higgins, with the Department of Health and Human Service, the North Carolina Structural Pest Control Field Manager Rick Reid and Field Inspector Keith Clark investigated a fumigation performed in the silos at Lakeside Mills, located at 398 West Main Street in Spindale, North Carolina, which resulted in possible exposure to Aluminum Phosphide. This exposure resulted in the hospitalization of a subcontractor working in the silo area at the time of the fumigation.
3. During the investigation, Complainant's Field Manager Reid and Inspector Clark learned that on August 19, 2016, Charles E. Stark, a registered technician with Gregory Pest Solutions of Charlotte, was performing the bi-monthly fogging and perimeter treatment at Lakeside Mills. During the application in the "middle room" area of the mill, Mr. Stark ran out of product and contacted his supervisor, Mr. Gary Wagner, and requested that Mr. Wagner bring more product to the site so that he could complete the bi-monthly treatment.

4. As Mr. Wagner arrived to the site area, he noted a strong "garlic-like" odor in the "middle room" where Mr. Stark was performing the perimeter treatment. Mr. Wagner, concerned by the smell, retrieved a PAX 7000 Dreger fumigant detector from his service vehicle, which indicated that the fumigant level of 4.5 Parts Per Million (PPM) was present in the area being treated by Mr. Stark. Mr. Wagner also noted that the hallway leading to the "middle room" contained fumigant levels of 0.59 and .30 PPM. Mr. Wagner, alarmed by the levels (which should not exceed 0.03 PPM), reported his concerns to his Lakeside Mills contact. Respondent, Kim Alan King, the employee of Lakeside Mills who performed the fumigation of the grain bins earlier that same day, immediately returned to the mill to investigate the high levels of fumigant.

5. Upon further investigation, Respondent determined that the fumigant entered the "middle room" via a pipe that was connected to the exterior grain bins. Based on Respondent's statements, Complainant's Inspectors inspected the interior and exterior of the mill, as well as the grain bins. They also concluded that the fumigant entered the middle room through the pipe that conveys grain into the mill for processing.

6. Upon review of Respondent's service records, Complainant's Inspectors confirmed the correct quantity of "Phosfume" pellet were used during the fumigation and, unfortunately, the fumigant inadvertently entered the "middle room" area of the structure via a connecting overhead pipe.

7. The Phosfume label states as follows:

**C. Leakage From Fumigated Sites**

Hydrogen phosphide is highly mobile and given enough time may penetrate seemingly gastight materials such as concrete and cinder blocks. Therefore, adjacent enclosed areas likely to be occupied should be examined to ensure that significant leakage has not occurred. Sealing of the fumigated site and/or air flow in the occupied areas should be used to reduce exposure.

8. Based on the information gathered during the investigation, Complainant's Inspectors charged Respondent with a Primary Deviation for inadvertently allowing the fumigant to enter the main building of the mill. Respondent was further instructed to properly seal the pipe and have the structure inspected by the North Carolina Department of Agriculture and Consumer Services prior to performing any future fumigation applications to the silos.

9. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

**02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL**

- (a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

- (b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

02 NCAC 34 .0904 PROHIBITED ACTS

- (m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

10. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. § 106-65.28(a)(1) through (12) and G.S. § 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

- (a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (9) Using any pesticide in a manner inconsistent with its labeling.

11. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1200.00) for violations of the above-stated North Carolina Structural Pest

Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

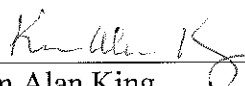
- (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 11(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 11(b) of this Agreement;
- (ii) Respondent further agrees to indemnify and fully reimburse Complainant for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedures that are necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Agreement.
- (c) Respondent further agrees that all sums payable to Complainant pursuant to this Agreement are nondischargeable in bankruptcy under 11 U.S.C. §523. Nothing in this Agreement releases any nondischargeability claims that may be asserted by Complainant in any bankruptcy proceeding, and nothing in this Agreement shall be deemed a waiver of Complainant's right to rely on the nature of any claim or debt released in this Agreement to show that the claim or debt is nondischargeable.
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;
- (e) That Respondent acknowledges that this Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

12. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

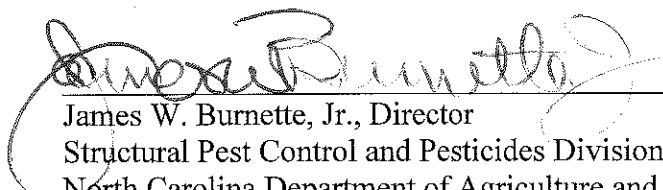
13. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
\_\_\_\_\_  
Kim Alan King  
Lakeside Mills  
398 West Main Street  
Spindale, North Carolina 28160

4/20/17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

5-2-2017  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

5/9/2017  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

DAVID D. PURCELL,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2016-9

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and David D. Purcell, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was the Structural Pest Control License holder (No. 894PW) for Douglas Pest Control, Post Office Box 748, Forest City, North Carolina 28043.
2. Respondent's Structural Pest Control License Number 894PW, which was registered to Douglas Pest Control, expired on June 30, 2016.
3. On July 21, 2016, Complainant's Field Inspector W. Keith Clark contacted Respondent, the owner/operator of Douglas Pest Control to discuss the delay in receiving Respondent's renewal application, which was received by Section on July 19, 2016. At that time, Respondent stated that his resident agent had failed to timely forward him the renewal information, resulting in his late submission. Initially, Respondent stated that no pest control services were performed during the lapse in renewal.
4. Approximately four days following Respondent's interview with Complainant's Inspector, Respondent contacted Complainant's Inspector and reported that three (3) household pest control services were performed during the period in which his license had lapsed, which totaled \$172.00 in proceeds.

5. Respondent did provide confirmation to Complainant's Inspector that Respondent maintained liability insurance throughout the expiration period.

6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

## 02 NCAC 34.0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Four Hundred Dollars (\$400) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Four Hundred Dollars (\$400) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Four Hundred Dollars (\$400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement. Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
  - (ii) Respondent further agrees to indemnify and fully reimburse Complainant for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedures that are necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Agreement.
- (c) Respondent further agrees that all sums payable to Complainant pursuant to this Agreement are nondischargeable in bankruptcy under 11 U.S.C. §523. Nothing in this Agreement releases any nondischargeability claims that may be asserted by Complainant in any bankruptcy proceeding, and nothing in this Agreement shall be deemed a waiver of Complainant's right to rely on the nature of any claim or debt released in this Agreement to show that the claim or debt is nondischargeable.
- (d) That Respondent acknowledges that, upon acceptance and execution of this Agreement by the Committee, the Agreement shall become public record within

the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;

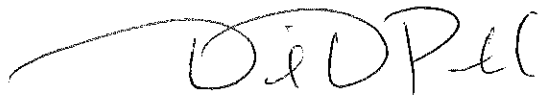
- (e) That Respondent acknowledges that this Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.

9. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

10. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

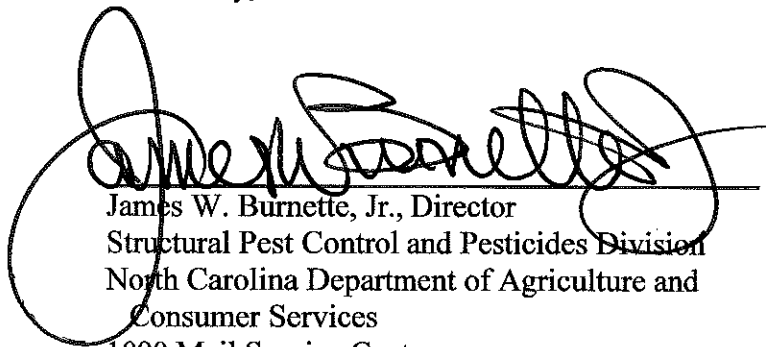
BY CONSENT:



David D. Purcell  
Douglas Pest Control  
Post Office Box 748  
Forest City, North Carolina 28043

7/19/17

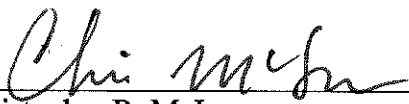
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

July 25, 2017

Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

7/25/2017

Date

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APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE2016-2

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )  
Complainant, )  
v. )  
BRYAN C. HEATH, )  
Respondent. )

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Bryan C. Heath, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1136PW, which expired July 1, 2015 and was renewed August 4, 2015 and was registered to Respondent's business Heath Pest Control, 3915 Welch Street, Suite 102, Kitty Hawk, Dare County, North Carolina 27949.
2. During inspections of Heath Pest Control on October 28, 2015 and November 23, 2015, Complainant learned that the insurance policy for Heath Pest Control had lapsed from March 7, 2015 through April 28, 2015.
3. During these inspections, Complainant's Inspectors, Bowman Gray and Victor Lennon, also determined that Heath Pest Control failed to renew Respondent's structural pest control license for the 2015-2016 year until August 5, 2015. Therefore, there was a lapse from July 1, 2015 through August 4, 2015, in which Respondent performed structural pest control work without a valid structural pest control license.
4. During these inspections, Complainant's Inspectors also performed a records review, which revealed the amount of structural pest control work performed by Respondent during the insurance and license lapse as follows:

*March 7, 2015 through April 28, 2015*

Structural pest control work performed during insurance lapse:

- Pest control: 248 jobs;
- Annual termite renewals: 41 inspections;
- Termite Pretreatments: 9;
- Post-construction termite treatments: 1; and
- WDIR's: 5.

*July 1, 2015 through August 4, 2015*

Structural pest control work performed during license lapse:

- Pest control: 184 jobs;
- Annual termite renewals: 22 inspections;
- Termite Pretreatments: 11;
- Post-construction termite treatments: 1; and
- WDIR's: 2.

5. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

#### 02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

- (a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.
- (e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.
- (f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:
  - (3) expiration of the policy.

N.C. Gen. Stat. § 106-65.25 Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

6. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a structural pest control license, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C. Gen. Stat. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

7. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

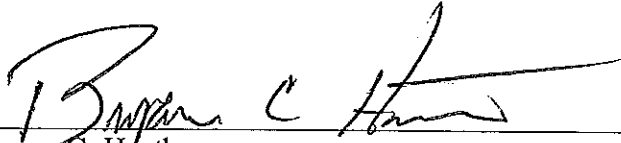
(a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;



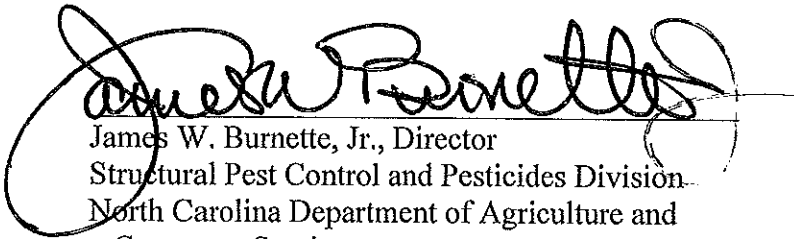
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 7(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 7(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

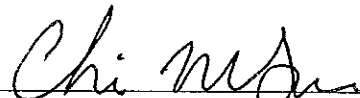
BY CONSENT:

  
Bryan C. Heath  
Heath Pest Management  
3915 Welch Street, Suite 102  
Kitty Hawk, North Carolina 27949

Oct 3, 2016  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

10/20/2016  
Date

  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

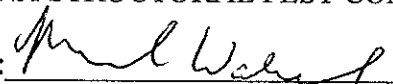
10/18/16  
Date

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APPROVED AND ORDERED FILED,

this the 27 day of July, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

WILLIAM J. INGERSOLL, II,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW2016-4

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and William J. Ingersoll, II, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License Number 1615PW, which expired on June 30, 2015 and which was registered to his business address at Sandhill's Pest Control, 2108 Bridgeport Circle, Sanford, North Carolina 27330. At all times pertinent to this matter, Respondent was the sole Structural Pest Control license holder for Sandhill's Pest Control.
2. On multiple occasions during 2014 and 2015, the North Carolina Structural Pest Control Section notified Respondent, that his license would expire on June 30, 2015 due to the lack of continuing credit units (CCUs) required to renew his Structural Pest Control License No. 1615 PW.
3. On June 30, 2015, Respondent's Structural Pest Control License Number 1615PW expired. As a result of the lapse in licensure, Respondent was required to recertify.
4. Respondent attempted to recertify by taking and passing the W-Phase and Core recertification exams on September 10 and October 29, 2015 respectively. Thereafter, Respondent failed to pay the license renewal fees required to retain his W-Phase license prior to the December 31, 2015 deadline.

5. On February 2, 2016, Respondent took and passed the P-Phase re-certification examination. Respondent received his certified applicator card (1849PW) on February 26, 2016.

6. On March 2, 2016, Field Manager Rick Reid and Field Inspector John Laughter hand-delivered a Cease and Desist Order informing Respondent that he no longer had a valid Structural Pest Control license and was therefore no longer to operate as Sandhill's Pest Control.

7. During their investigation, Respondent was asked to provide his most recent pest control records. Respondent stated that they had been stolen in December of 2015 while he was visiting his mother in New York. Respondent indicated that someone broke into his vehicle and took his laptop and briefcase. He also stated that all his back-up files and his current work reports were kept on his laptop, which was contained in the stolen briefcase.

8. Field Manager Reid and Inspector Laughter asked Respondent if he filed a police report reporting the break-in to the local authorities. Respondent stated that he had not filed a police report because he did not feel it would help recover his property. Respondent did offer to show Field Manager Reid and Inspector Laughter some of his 2014 pest control records.

9. During his interview, Respondent stated that he did not perform any Structural Pest control work after June 30, 2015. However, contained within the 2014 records provided by Respondent, were five (5) Wood-Destroying Insect Information Reports (WDIRs) performed by Respondent from July 2, 2015 to July 30, 2015, during which time his Structural Pest Control license had lapsed, for a fee of \$75.00 each (\$375.00 total).

10. Respondent confirmed that he maintained his liability insurance from June 30, 2015 to June 30, 2016, which included the period that he performed the WDIRs during his lapse in licensure. Respondent provided confirmation of his liability insurance coverage on March 3, 2016.

11. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C. Gen. Stat. § 106-65.25. Phases of structural pest control; prohibited acts; license required; exceptions.

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

02 NCAC 34 .0328

- (a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.
- (c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon request by the Division.

12. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty, which may be assessed by the Committee as follows:

N.C. Gen. Stat. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

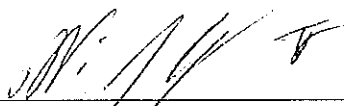
13. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Two Thousand Four Hundred Dollars (\$2,400.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Two Thousand Four Hundred Dollars (\$2,400.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Two Thousand Four Hundred Dollars (\$2,400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 13(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. Gen. Stat. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 13(b) of this Agreement;

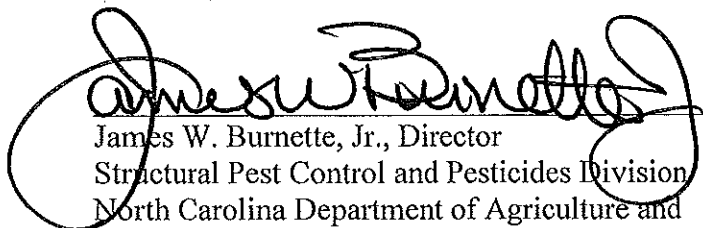
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G. S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

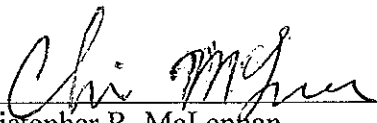
BY CONSENT:

  
\_\_\_\_\_  
William J. Angersoll, II  
Sandhill's Pest Control  
2108 Bridgeport Circle  
Sanford, North Carolina 27330

8/20/16  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

10/26/2016  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

10/28/2016  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_ day of \_\_\_\_\_, 2016.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW16-012

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

ALVIN GREGG MOSER, )

Respondent. )

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Alvin Gregg Moser, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent, Alvin Gregg Moser, did not possess a valid North Carolina Structural Pest Control License. Respondent previously held a Registered Technician card No. 45152 and operated under the structural pest control licensee for Budget Pest Control. However, at the time of the treatment at issue, Respondent was no longer employed with Budget Pest Control.
2. On November 16, 2016, Complainant's Structural Pest Control Section Inspector, John Laughter, responded to a telephone complaint and met the homeowner at his residence located at 3602 Panarama Drive Greensboro, NC 27405.
3. The homeowner stated that he had contacted Respondent from information found on a business card, and that on October 8, 2016, two men came to his home. One man identified himself as "Gregg" and was dressed in a Budget Pest Control shirt and provided his green inspector's card to show that he was approved by the State. The other gentleman mixed the chemicals that were used for the treatment, but the homeowner could not recall if a uniform was worn or not. The homeowner's two neighbors alleged being witness to the meeting and treatment.
4. The homeowner stated Respondent inspected his house for bed bugs and they were discovered. An estimate of \$550.00 was given to perform the treatment. The homeowner indicated to Respondent that he only had \$350.00 in cash, so Respondent indicated that he texted his supervisor to see if he could pay the last \$200.00 after the treatment. The homeowner stated they



saw a text on Respondent's phone that said that he could pay the last \$200.00 later after the treatment. The homeowner stated that he paid Respondent \$350.00 in cash and obtained a receipt.

5. After the treatment was made, the homeowner stated that Respondent did not offer a contract, so the homeowner asked him to write one out. Respondent then gave a business card to the homeowner and stated that if he had any problems with the treatment to contact him by cell phone or call the office.

6. The homeowner continued to have problems with bed bugs, but could not reach Respondent by phone, so he contacted the Budget Pest Control office as instructed and spoke to the owner, Mr. Mike Owens. Mr. Owens informed the homeowner that Respondent was no longer an employee, but that he would come and treat the house for bed bugs at no further cost to him.

7. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. § 106-65.25

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

8. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to action against a structural pest control license and/or a civil penalty which may be assessed by the Structural Pest Control Committee as follows:

N.C.G.S. § 106-65.41

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

9. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

(a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;

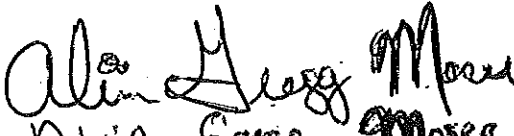
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 9(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 9(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

10. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

11. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

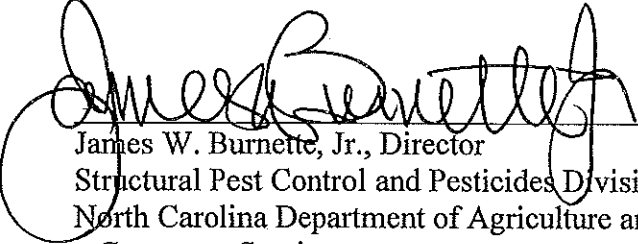
BY CONSENT:

  
Alvin Gregg Moser  
617 Johnny Bowman Rd.  
Mt. Airy, NC 27030

Alvin Gregg Moser  
225 Butner Road  
Tobaccoville, North Carolina 27050

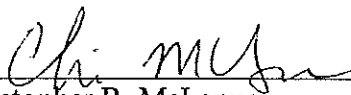
Date

03/15/18

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

Date

04/10/2018

  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

Date

4/10/18

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant,

v.

DENNIS H. JONES,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW17-4

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Dennis H. Jones, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License No. 1081PW, which was registered to Applied Pest Control Technology, located at 2511-M Neudorf Road, Clemmons, North Carolina 27012. Respondent's Structural Pest Control License expired on June 30, 2017.

2. On July, 12 2017, Complainant's Field Inspector Mr. Jimmy Hall performed a routine inspection at the office of Applied Pest Control Technology, located at 2511-M Neudorf Road, Clemmons, North Carolina 27012.

3. During this routine inspection, Complainant's Inspector determined that Respondent's Structural Pest Control License No. 1081PW, which was registered to Applied Pest Control Technology, had expired on June 30, 2017. Respondent did not have the required Continuing Certification Units (CCU's) for renewal. Mrs. Angela Harris' Structural Pest Control License No. 1756PW was registered to Applied Pesticide Technology on July 12, 2017.

4. Complainant's Inspector documented that Applied Pest Control Technology, was closed from July 1 till July 4, 2017, but continued to conduct business and operate for the period of July 5, to July 12, 2017. During that time (30) P-phase pest control accounts were serviced for a total of \$2345.00 and (24) W-phase pest control accounts were serviced for a total of \$2040.00. The total of all work performed was \$4385.00. Liability Insurance was maintained throughout the expiration period.

5. On July 17, 2017, Complainant's Inspector documented that Cramer Pest Control, continued to conduct business and operate for the period of July 1, 2016 to July 14, 2017. During that time (224) Household Pest control jobs were performed totaling \$28966.95, and (158) W phase jobs were also performed totaling \$99,858.00. The total of all work performed was \$128,824.95. Liability insurance was maintained throughout the expiration period.

6. Respondent has since recertified and holds Structural Pest Control License No. 1081PW.

7. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. 106-65.25

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

8. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C.G.S. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

9. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:


- (a) That Respondent shall pay the sum of Four Hundred Dollars (\$400.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Four Hundred Dollars (\$400.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Four Hundred Dollars (\$400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 9(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 9(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

10. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

11. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

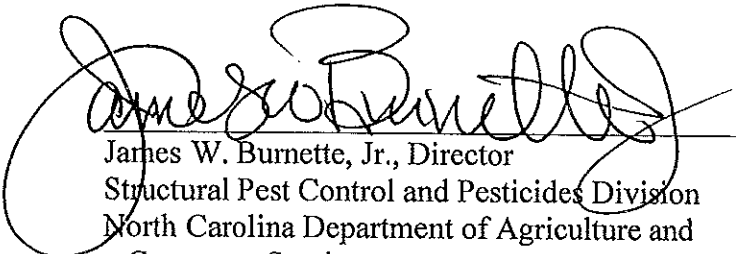
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:

  
Dennis H. Jones  
Applied Pest Control Technology  
2511-M Neudorf Rd.  
Clemmons, North Carolina 27012

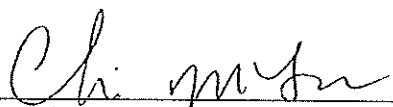
Date

4/3/18

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

Date

4/8/2018

  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

Date

4/10/2018

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

HENRY D. TOLLIE, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPW17-6

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Henry D. Tollie, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent was neither licensed nor certified to perform structural pest control in North Carolina.
2. Complainant's Inspector, Paul Lail, received information that Respondent had been treating structures for the control of household pests in North Carolina without first obtaining a structural pest control license.
3. Complainant's Inspector spoke with Mrs. Kathy Sisk by telephone regarding Respondent's performance of structural pest control services for a fee. Additionally, Ms. Sisk provided (by fax) a canceled check she had issued to Respondent for pest control services.
4. On July 31, 2017, Complainant's Inspector received a call from Respondent asking if Complainant's Inspector would meet with him regarding his pest control activities.
5. On August 1, 2017, Complainant's Inspector met with Respondent regarding the pest treatments he had made. Respondent admitted to performing about ten pest control services and termite inspections in North Carolina. These services occurred in 2015 through 2016.



6. Respondent stated that he did not keep any records of these pest control treatments or termite inspections. Respondent also stated that he had worked in the structural pest control industry for around 35 years until December 2015 and that he purchased the pest control chemicals at local home and garden stores.

7. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. 106-65.25

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

8. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

9. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;

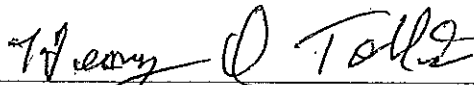
- (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 9(b) and waives that right by consenting to the terms of this Agreement.
- (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 9(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

10. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

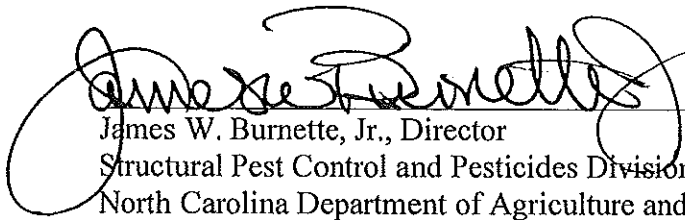
11. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

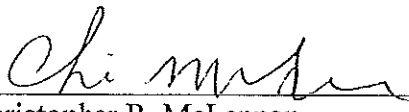
BY CONSENT:

  
Henry D. Tollie  
1478 Shiloh Road  
Claremont, North Carolina 28610

4-10-18  
Date

  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

4-12-2018  
Date

  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

4/12/2018  
Date

\*\*\*\*\*  
APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER  
SERVICES, STRUCTURAL PEST  
CONTROL AND PESTICIDES DIVISION,

Complainant,

v.

STANLEY HOLLINGSWORTH,

Respondent.

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPE17-1(A)

SETTLEMENT AGREEMENT

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Stanley Hollingsworth, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent Stanley Hollingsworth was the Structural Pest Control License holder for, and owner of, Bug N A Rug Ext. Co, 670 Wellington Avenue, Wilmington, North Carolina 28401.
2. On October 12, 2016, Complainant's Field Inspector, Richard Willis, responded to a complaint from Iva Norton, 507 S. Front Street., Wilmington, North Carolina. Ms. Norton had been issued a wood-destroying insect report ("WDIR") by an employee of Bug N A Rug that was operating under Respondent's license on April 29, 2016. During the inspection it was noticed that the WDIR report should have indicated subterranean termites; no control measures were performed.
3. The WDIR report also failed to list evidence of termites in wooden members of the structure and termite evidence in other areas. The WDIR also failed to list evidence of powder post beetles in the wooden members. Active subterranean termites were found in the structure.
4. In response, Respondent agreed to treat Mr. Norton's house for termites.
5. A month later, on November 17, 2016, Complainant's Field Inspector Richard Willis responded to a second complaint from a buyer, Shelly Baker, regarding the homeowner's, Eliza Sloan, property. The property is located at 67 Sloan Road, Leland, North Carolina.

6. Ms. Sloan was issued a WDIR on November 10, 2016, by a certified applicator, Charlie Butcher (SCA No. CA1890W 27832) for Bug N A Rug Ext. Co. The WDIR indicated powder post beetles, but no control measures were performed.

7. In review of the WDIR, the report failed to disclose all areas of termite evidence in the structure and the powder post beetles did not exhibit signs of emergence. A proposal to treat for active powder post beetles was given when no such supporting evidence existed that powder post beetles were active.

8. For Ms. Sloan's property, the WDIR report should have indicated subterranean termite-visible evidence of a previously treated infestation, which now appears inactive. For the powder post beetles, the report should have stated an infestation which now appear inactive. The report should have been more specific as to the location of visible evidence of infestation in relation to the termite evidence.

9. A third complaint was made on July 11, 2017, by a real estate agent, Allison Donovan, concerning the issuance of a WDIR-100 for a property located at 1321 Chestnut Street, Wilmington, North Carolina.

10. A structural registered technician from a Bug N A Rug Ext. Co., Ryan Payne (RT No. 43885) issued a proposal on June 27, 2017, to the buyer's agent, Allison Donovan. The proposal was to treat for active powder post beetles in the crawl space when no such supporting evidence existed that the beetles were active.

11. The WDIR report failed to disclose all areas of termite evidence in the structure and the powder post beetles did not exhibit signs of emergence and the powder post beetle evidence was evident by a few small holes in a floor joist located at the back foundation wall. Also needed was an indication of subterranean termite-visible evidence of a previously treated infestation, which now appears inactive and powder post beetles with an infestation, which now appears inactive.

12. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. § 106-65.25

(c) It shall be unlawful for any licensee to do any of the following:

(2) Fail to supervise the structural pest control performed out of the licensee's home office or any branch office under the licensee's management.

02 NCAC 34 .0602

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an

inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

02 NCAC 34 .0904

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

13. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

14. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 14(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 14(b) of this Agreement;

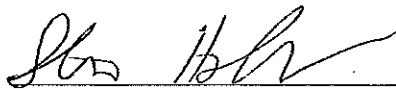
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

15. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

16. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

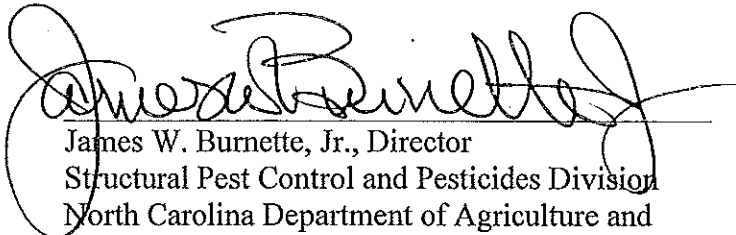
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



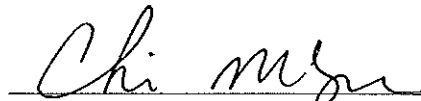
Stanley Hollingsworth  
Bug N A Rug Ext. Co.  
670 Wellington Ave.  
Wilmington, NC 28401

3/7/18  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

3/19/2018  
Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

3/19/2018  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

CHARLIE BUTCHER, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPE17-1(B)

SETTLEMENT AGREEMENT

---

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Charlie Butcher, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Certified Applicator No. CA 1890W and was employed by Bug N A Rug Ext. Co, 670 Wellington Avenue, Wilmington, North Carolina 28401.
2. On November 17, 2016, Complainant's Field Inspector Richard Willis responded to a complaint from a buyer, Shelly Baker, regarding the homeowner's, Eliza Sloan, property. The property is located at 67 Sloan Road, Leland, North Carolina.
3. Respondent issued Ms. Sloan was issued a wood-destroying insect report ("WDIR") on November 10, 2016. The WDIR indicated powder post beetles, but no control measures were performed.
4. In review of the WDIR, the report failed to disclose all areas of termite evidence in the structure and the powder post beetles did not exhibit signs of emergence. A proposal to treat for active powder post beetles was given when no such supporting evidence existed that powder post beetles were active.

5. For Ms. Sloan's property, the WDIR report should have indicated subterranean termite-visible evidence of a previously treated infestation, which now appears inactive. For the powder post beetles, the report should have stated an infestation which now appear inactive. The report should have been more specific as to the location of visible evidence of infestation in relation to the termite evidence.

6. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

02 NCAC 34 .0602

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

02 NCAC 34 .0904

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

7. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control identification card, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

8. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

(a) That Respondent shall pay the sum of Eight Hundred Dollars (\$800.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;


- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Eight Hundred Dollars (\$800.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Eight Hundred Dollars (\$800.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 8(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 8(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

9. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

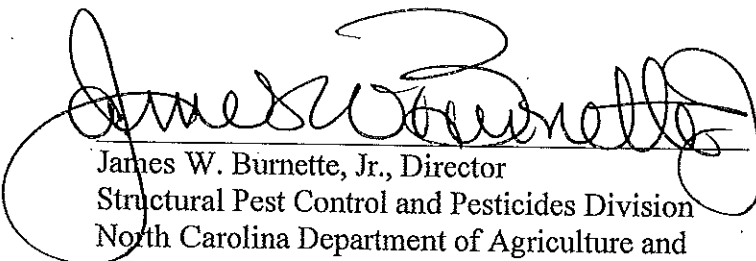
10. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

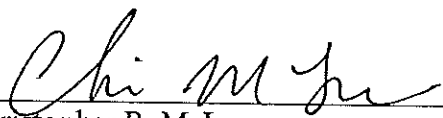
BY CONSENT:

  
\_\_\_\_\_  
Charlie Butcher  
Bug N A Rug Ext. Co.  
670 Wellington Ave.  
Wilmington, NC 28401

3/7/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

3/19/2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

3/19/2018  
\_\_\_\_\_  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY: \_\_\_\_\_  
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

EARL BASSETT III, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPE17-6

SETTLEMENT AGREEMENT

---

PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Earl Bassett, III, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent owned and operated A-2-Z Pest Control & Wildlife Removal located at 1505 West Queen Street, Edenton, North Carolina 27932 and was the responsible structural pest control license holder.
2. On August 14, 2017, Complainant's Field Inspector Bowman Gray determined that Respondent had failed to renew his Structural Pest Control License No. 1936 PW. Therefore, Respondent's structural pest control license lapsed from July 1, 2017 through August 17, 2017. However, liability insurance was maintained throughout this expiration period.
3. During this lapse, Respondent serviced and invoiced nine (9) P-phase pest control accounts.

4. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. § 106-65.25

(b) It shall be unlawful for any person to:

- (1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

5. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.28

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

N.C.G.S. § 106-65.41

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

6. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of Four Hundred Dollars (\$400.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;


- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Four Hundred Dollars (\$400.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Four Hundred Dollars (\$400.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 6(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 6(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

7. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

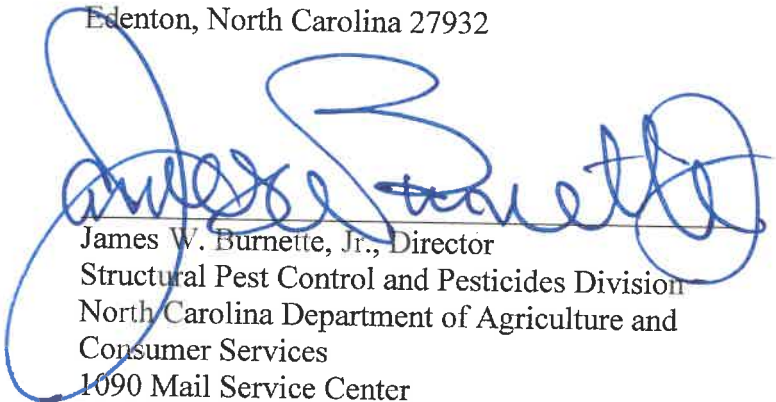
8. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.


BY CONSENT:

  
\_\_\_\_\_  
Earl Bassett III  
1505 West Queen Street  
Edenton, North Carolina 27932

12/10/18  
Date

  
\_\_\_\_\_  
James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

12-13-2018  
Date

  
\_\_\_\_\_  
Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

12/14/2018  
Date

\*\*\*\*\*

APPROVED AND ORDERED FILED,

this the 10 day of January, 201<sup>9</sup>8.

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman



STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

CHRISTOPHER G. CRAMER, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE  
File No. SPW17-3

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Christopher G. Cramer, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License No. 1601PW, which was registered to Cramer Pest Control, 11724 Downs Road, Pineville, North Carolina. Respondent's Structural Pest Control License expired on June 30, 2016.
2. Complainant did not receive license renewal payment for the 2016-2017 year or 2017-2018 year from Cramer Pest Control. On July 13, 2017, Complainant received a call from Cramer Pest Control inquiring about their 2018 license renewal.
3. On July, 17 2017, Complainant's Field Inspector Mark Flynn performed a routine inspection at the corporate office of Cramer Pest Control at their North Carolina office located at 117724 Downs Road, Pineville, North Carolina 28134.
4. During the course of this inspection, Complainant's Inspector determined that Respondent, who held Structural Pest Control License No. 1601PW for Cramer Pest Control, had failed to renew his license. It was determined that Respondent's license had expired on June 30, 2016. Respondent was not aware that his license had not been renewed.

5. On July 17, 2017, Complainant's Inspector documented that Cramer Pest Control, continued to conduct business and operate for the period of July 1, 2016 to July 14, 2017. During that time (224) Household Pest control jobs were performed totaling \$28966.95, and (158) W phase jobs were also performed totaling \$99,858.00. The total of all work performed was \$128,824.95. Liability insurance was maintained throughout the expiration period.

6. License renewal and payment for both licensing periods were received by Complainant the following day, July 18, 2017.

7. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. 106-65.25

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

8. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C.G.S. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

9. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

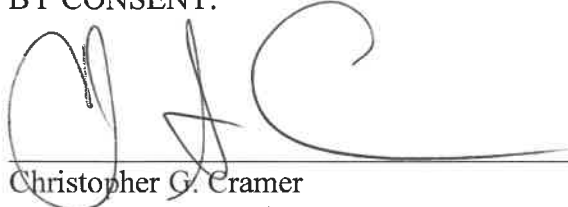
- (a) That Respondent shall pay the sum of Four Thousand Dollars (\$4,000.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of Four Thousand Dollars (\$4,000.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of Four Thousand Dollars (\$4,000.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 9(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 9(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

10. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.

11. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.

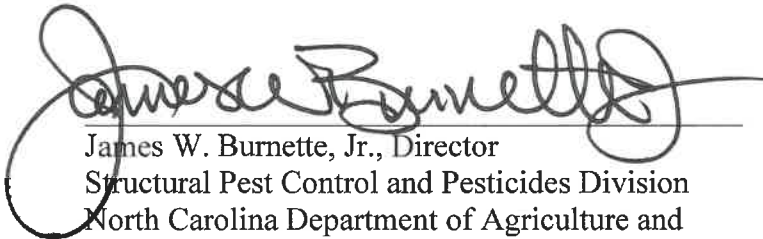
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:




Christopher G. Cramer  
Cramer Pest Control  
PO Box 517  
11724 Downs Road  
Pineville, North Carolina 28134

5-18-18  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

5-22-2018  
Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

5/23/2018  
Date

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APPROVED AND ORDERED FILED,

this the 10 day of JANUARY, 201<sup>9</sup>8

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman

STATE OF NORTH CAROLINA

COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF )  
AGRICULTURE AND CONSUMER )  
SERVICES, STRUCTURAL PEST )  
CONTROL AND PESTICIDES DIVISION, )

Complainant, )

v. )

LANCE HINES, )

Respondent. )

BEFORE THE NORTH CAROLINA  
STRUCTURAL PEST CONTROL  
COMMITTEE

File No. SPE17-3

SETTLEMENT AGREEMENT

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PURSUANT TO N.C. Gen. Stat. §§ 150B-22 and 150B-41(c) which express the State's policy that parties shall attempt to mediate and resolve contested matters by settlement or stipulation, and subject to final approval by the North Carolina Structural Pest Control Committee ("Committee"), this Settlement Agreement is made between the Structural Pest Control and Pesticides Division of the North Carolina Department of Agriculture and Consumer Services, herein referred to as Complainant, and Lance Hines, hereinafter referred to as Respondent.

1. At all times pertinent to this matter, Respondent held Structural Pest Control License No. 2034P, which was registered to his business: Mayday Pest Control, LLC, 212 Apple Drupe Way, Holly Springs, North Carolina. Respondent's Structural Pest Control License expired on June 30, 2016. Additionally, Respondent's insurance lapsed from April 24, 2016 through October 20, 2016, making his license invalid during that period.

2. On April 26, 2017, Complainant's Structural Pest Control Section Inspector, Arthur Watkins, visited Respondent to investigate Respondent's lapse of insurance and failure to renew his license to perform structural pest control work for the public.

3. Following Respondent's license expiration on June 30, 2016, Respondent's company continued to perform structural pest control services for a total revenue of \$62,834.00 dollars. The revenue included a total of 801 pest control services that were performed between the dates of April 25, 2016 through April 26, 2017. It was also determined that Respondent performed structural pest control work without renewing his license during July 1, 2016 and April 26, 2017.

4. As a result of its investigation, Complainant alleges that Respondent, either by act or omission, violated the following provision(s) of the North Carolina Structural Pest Control Law and/or Regulations:

N.C.G.S. 106-65.25

(b) It shall be unlawful for any person to:

(1) Advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control or otherwise act in the capacity of a structural pest control licensee unless the person is licensed pursuant to this Article or has engaged the services of a licensee as a full-time regular employee who is responsible for the structural pest control performed by the company. A license is required for each phase of structural pest control.

02 NCAC 34 .0902

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

(1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;

(2) cancellation of the policy; or

(3) expiration of the policy.

Such expired license shall be reinstated only upon satisfactory proof that the licensee has obtained the required financial responsibility coverage.

5. Each of the above violations of the North Carolina Structural Pest Control Law and/or Regulations is subject to a civil penalty and/or action against a Structural Pest Control License, which may be assessed by the Committee as follows:

N.C.G.S. § 106-65.41 Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12) and G.S. 106-65.28(a)(14) and (15), or who

violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article.

N.C.G.S. § 106-65.28 Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

(12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.

6. The parties are willing to accept a settlement of the dispute between them. This Agreement is made in order completely and finally to resolve the parties' claims and differences as stated above upon the following conditions:

- (a) That Respondent shall pay the sum of One Thousand Two Hundred Dollars (\$1,200.00) to the North Carolina Department of Agriculture and Consumer Services within thirty (30) days of the Committee's approval of this Agreement;
- (b) That Respondent agrees that if Respondent fails to pay the agreed upon sum of One Thousand Two Hundred Dollars (\$1,200.00) within thirty (30) days of the Committee's approval of this Agreement, this Agreement shall constitute a civil penalty assessment of the Committee of One Thousand Two Hundred Dollars (\$1,200.00) for violations of the above-stated North Carolina Structural Pest Control Law and Regulations; failure to pay the civil penalty may subject Respondent to criminal and/or additional administrative charges;
  - (i) That Respondent acknowledges his right to a hearing before the Committee of the civil penalty assessment in paragraph 6(b) and waives that right by consenting to the terms of this Agreement.
  - (ii) Respondent further agrees that the collection procedures outlined in N.C. G.S. § 106-65.41 may be instituted based on the civil penalty assessment contained in paragraph 6(b) of this Agreement;
- (c) That Respondent acknowledges that this Settlement Agreement constitutes full and fair written notice from the Committee, as provided in G.S. 106-65.33(a), that in the event that the Respondent commits any further violation of the Structural Pest Control Act, G.S. 106-65.22 *et seq.*, and/or the rules promulgated thereunder, 02 NCAC 34, then the Court in any prosecution of the Respondent for such violations may determine that each day during which Respondent's violation continued or is repeated constitutes a separate violation subject to punishment as a Class 2 misdemeanor.
- (d) Respondent further agrees to indemnify and fully reimburse the North Carolina Department of Agriculture and Consumer Services for any costs, including court

costs and reasonable attorneys' fees, incurred as a result of any collection procedure outlined in N.C. Gen. Stat. § 106-65.41 that is necessitated by Respondent's failure to pay the agreed sum pursuant to the terms of this Settlement Agreement.

7. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole Agreement between them.
8. This Agreement shall be binding upon the parties, their successors and assigns, upon execution by the undersigned, who represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto.



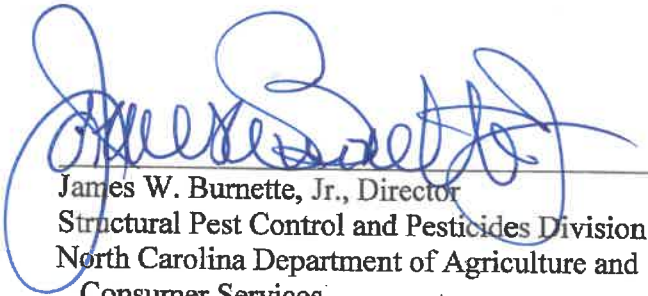
WHEREFORE, the parties to this action hereby notify the Committee that it will be unnecessary to hold a hearing regarding this matter and respectfully request approval of this Settlement Agreement.

BY CONSENT:



Lance Hines  
Mayday Pest Control, LLC  
212 Apple Drupe Way  
Holly Springs, North Carolina 27540

10/3/18  
Date



James W. Burnette, Jr., Director  
Structural Pest Control and Pesticides Division  
North Carolina Department of Agriculture and  
Consumer Services  
1090 Mail Service Center  
Raleigh, North Carolina 27699-1090

10-9-2018  
Date



Christopher R. McLennan  
Assistant Attorney General  
North Carolina Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

10-9-2018  
Date

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APPROVED AND ORDERED FILED,

this the 10 day of JANUARY, 201<sup>9</sup><sub>8</sub>

NORTH CAROLINA STRUCTURAL PEST CONTROL COMMITTEE

BY:   
Chairman